

By Mr. FULLER: Petition of David Felmley, president of the Illinois State Normal University, favoring the passage of the vocational education bill (S. 3); to the Committee on Education.

Also, petition of A. H. Bliss, Chicago, Ill., favoring passage of House bill 2920, pensioning military telegraphers; to the Committee on Invalid Pensions.

By Mr. GILL: Petition of the American Federation of Labor, favoring enactment of legislation decreasing the tax on oleomargarine; to the Committee on Agriculture.

By Mr. HAMLIN: Papers to accompany bill (H. R. 1811) to grant a pension to Marion West; to the Committee on Invalid Pensions.

By Mr. HINDS: Memorial of Capt. Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. KAHN: Petition of John H. Robins, of San Francisco, Cal., favoring the passage of the Kenyon-Sheppard liquor bill, preventing shipment of liquor into "dry" territory; to the Committee on the Judiciary.

By Mr. KINKEAD of New Jersey: Petition of the Intercontinental Rubber Co., Jersey City, N. J., favoring the passage of House bill 26377, to establish a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. LAWRENCE: Petition of merchants of Greenfield, Mass., favoring enactment of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. LEE of Georgia: Papers to accompany bill (H. R. 26702) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the Chamber of Commerce of the State of New York, protesting against the placing of the Board of General Appraisers under control of any department of the Government; to the Committee on Expenditures in the Treasury Department.

By Mr. NEEDHAM: Petition of dairymen of Texas, protesting against the passage of any legislation removing the tax on oleomargarine; to the Committee on Agriculture.

By Mr. OLMSTED: Petition of the Woman's Home Missionary Society of Carlisle Presbytery, favoring passage of a bill abolishing polygamy in the United States; to the Committee on the Judiciary.

By Mr. SLOAN: Petition of the Union Thanksgiving Services, Osceola, Nebr., favoring passage of an effective interstate liquor bill; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the New Haven Chamber of Commerce, favoring passage of bill (H. R. 26277) creating a final court of patent appeals; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of citizens of Seneca Falls, N. Y., favoring a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

SENATE.

FRIDAY, December 6, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

ALBERT B. FALL, a Senator from the State of New Mexico; ASLE J. GRONNA, a Senator from the State of North Dakota; WILLIAM J. STONE, a Senator from the State of Missouri; and JOHN S. WILLIAMS, a Senator from the State of Mississippi, appeared in their seats to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore (Mr. BACON). The Chair lays before the Senate a communication from the Secretary of War transmitting, pursuant to law, reports of the chiefs of the several bureaus of the War Department, listing papers in their respective offices not needed or useful in the transaction of business and having no permanent value or historic interest and recommending the disposal of the same.

The communication will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as the committee on the part of the Senate the Senator from Arkansas [Mr. CLARKE] and the Senator from New Hampshire [Mr. BURNHAM].

The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

REPORT ON ORDNANCE AND FORTIFICATIONS.

The PRESIDENT pro tempore laid before the Senate the Twenty-second Annual Report of the Board of Ordnance and Fortifications for the fiscal year ended June 30, 1912, which was referred to the Committee on Military Affairs and ordered to be printed.

SPRINGFIELD ARMY AND ROCK ISLAND ARSENAL (H. DOC. NO. 1065).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, statements of the expenditures, etc., of the Springfield Armory, Mass., and at the Rock Island Arsenal, Ill., for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

CHARLES J. ALLEN V. UNITED STATES (S. DOC. NO. 969).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Charles J. Allen v. United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. McCUMBER presented petitions of sundry citizens of Inkster and Valley City, in the State of North Dakota, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. ASHURST presented a petition of members of the Arizona Mission of the Methodist Episcopal Church of Bisbie, Ariz., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. BROWN presented resolutions adopted by the Chamber of Commerce of North Platte, Nebr., favoring the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were referred to the Committee on Agriculture and Forestry.

Mr. RICHARDSON presented a resolution adopted at the Christian Endeavor Convention held at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMOOT:

A bill (S. 7618) granting an increase of pension to John Miller (with accompanying papers); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7619) for the relief of Laetitia M. Robbins (with accompanying papers); to the Committee on Claims.

By Mr. MARTINE of New Jersey (for Mr. BRIGGS):

A bill (S. 7620) for the relief of Ernest C. Stahl; to the Committee on Military Affairs.

By Mr. MARTIN of Virginia:

A bill (S. 7621) for the relief of James C. Hilton; to the Committee on Naval Affairs.

By Mr. OVERMAN:

A bill (S. 7622) for the relief of Stanley Mitchell (with accompanying paper); to the Committee on Naval Affairs.

By Mr. TOWNSEND:

A bill (S. 7623) granting an increase of pension to Henry W. Bradley (with accompanying paper); and

A bill (S. 7624) granting an increase of pension to Royal H. Stevens (with accompanying paper); to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 7625) for the relief of certain members of the Five Civilized Tribes in Oklahoma; to the Committee on Indian Affairs.

By Mr. KENYON:

A bill (S. 7626) granting an increase of pension to George W. Stratton; and

A bill (S. 7627) granting a pension to Ada Brott; to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7628) granting an increase of pension to Araminta G. Sargent; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7629) to provide for the further Federal regulation of pilotage; to the Committee on Commerce.

A bill (S. 7630) granting a pension to Emelia McNicol; and

A bill (S. 7631) granting a pension to Margaret J. Yolkley; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 7632) granting an increase of pension to Junius Thomas Turner; to the Committee on Pensions.

By Mr. BROWN:

A bill (S. 7633) granting a pension to Henry Wegworth (with accompanying paper); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7634) to correct the military record of Thomas Smart; to the Committee on Military Affairs.

A bill (S. 7635) granting an increase of pension to Catherine A. Payne (with accompanying papers); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7636) for the relief of Cecelia Barr (with accompanying paper); to the Committee on Claims.

OMNIBUS CLAIMS BILL.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

THE AVIATION SERVICE.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service, which was referred to the Committee on Military Affairs and ordered to be printed.

THE COURTS AND THE CONSTITUTION (S. DOC. NO. 970).

Mr. LODGE. I have a copy of the address by Senator GEORGE SUTHERLAND, of Utah, delivered at the meeting of the American Bar Association, at Milwaukee, Wis., August, 1912, on the courts and the Constitution. I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ADDRESS BY PRESIDENT TAFT (S. DOC. NO. 971).

Mr. JOHNSTON of Alabama. I ask that an address delivered by President Taft at the opening session of the convention of United Daughters of the Confederacy, November 12, 1912, be printed as a public document. I make this request because of the broad statesmanship of the address and the eloquent and patriotic sentiments expressed in it. I think it ought to be given to every citizen of the United States to read.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

VOLUNTEER OFFICERS' RETIRED LIST.

Mr. TOWNSEND. I ask that 1,000 copies of a hearing had before a subcommittee of the Committee on Military Affairs on the bill relating to the Civil War volunteer officers' retired list be printed for the use of the subcommittee.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 1,000 copies, "Hearing before a subcommittee of the Committee on Military Affairs, United States Senate, Civil War volunteer officers' retired list," be printed for the use of the subcommittee.

HOUSE BILL REFERRED.

H. R. 22593. An act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, was read twice by its title and referred to the Committee on Interstate Commerce.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in

accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts.

Mr. CRAWFORD. Mr. President, the committee amendments have—

Mr. WORKS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from California?

Mr. WORKS. I desire to offer an amendment to the bill, if this is the proper occasion.

Mr. CRAWFORD. If the Senator will permit me to make a statement—

Mr. WORKS. Certainly.

Mr. CRAWFORD. I desire to say that the amendments reported by the committee have now been acted upon by the Senate and the bill is open to amendments which may be offered not coming from the committee. If the Senator from California will permit me, in this connection I wish to state the position of the committee with reference to such amendments as may now be offered in the open Senate.

There are certain claims, such, for instance, as claims for overtime in the navy yards, that are practically all of one character. The legal questions connected with them have been absolutely settled by the court, and the only question is the number of hours of overtime and the rate of wages. If a case which comes within that class that has not been reported should be offered here, it would be so simple that there would be no questions of facts to discuss in relation to it, and I do not think that the committee would be averse to accepting an amendment that might include an additional claim of that character.

The same is true with reference to what are known as the longevity claims. They are all exactly the same and have been settled by the decisions. An amendment that should propose the insertion of an additional claim of that kind could involve no questions of fact, and I do not think it would open up a discussion.

But outside of those particular cases the offering of amendments without the committee having had an opportunity to investigate the claims or the offering of amendments which the committee has investigated and for reasons satisfactory to it have declined to put into the bill will necessarily meet with the opposition of the committee.

Mr. OVERMAN. May I ask the Senator a question?

Mr. CRAWFORD. Certainly.

Mr. OVERMAN. I appreciate what the Senator says; I am on the committee with him; but I desire to ask what his policy will be as to those claims where the court findings have come in since the committee acted which are on a par with claims we have already included in the bill. Suppose that since the bill was prepared court findings should have come in on the same kind and class of claims?

Mr. CRAWFORD. As I have just stated, should they be claims in relation to overtime in the navy yards or longevity—

Mr. OVERMAN. I understood what the Senator said as to those, but there are church claims. We have included certain kinds of church claims. According to a certain rule they have been included. Suppose a case comes in here to-day from the Court of Claims that is exactly on all fours with the church claims which are included in the bill, why should such claims be objected to if they are on all fours with every church claim in the bill?

Mr. CRAWFORD. The committee have declined to put in the bill a great many claims that are for the use and occupation of churches, and they have declined to put in the bill some claims for the destruction of churches where that destruction was an act of war.

Each of these cases necessarily rests upon a particular state of facts. Where the committee have had no opportunity as a committee to investigate the findings of the court and analyze them or pass upon them, I do not think it would be a good way to legislate claims into the bill, to act upon those amendments here for the first time in the Senate, without their having gone to the committee at all. I should feel that it would be my duty to insist that they should be considered by the committee.

Mr. OVERMAN. The Senator knows, as I know, under what rule the committee acted, and I agreed to it for the time being, hoping to get some legislation. But suppose the chairman of the committee, after reading the court findings, concludes that these church claims fall within the class under the rule we adopted, will not the Senator agree to accept them?

Mr. CRAWFORD. The Senator from North Carolina is imposing almost too much work upon the chairman of the committee at a time when this long bill, with several thousand items in it, is here for consideration, to ask him in the midst of it to take the findings of the Court of Claims and go through

them for the purpose of ascertaining whether they fall on this side or that side of the rule which the committee adopted.

Mr. OVERMAN. I know the Senator so well that I know he can read five lines of a court finding and determine within a minute whether or not it falls within the rule we adopted.

Mr. CRAWFORD. I will say to the Senator I do not think it would be quite fair to the full committee for the chairman to take that responsibility.

Mr. OVERMAN. I do not see why he should not take that responsibility with reference to those claims as well as any other claims.

Mr. BAILEY. Let the Senate take the responsibility.

Mr. CRAWFORD. I am perfectly willing that that should be done. Of course I could not have any objection to that, but the Senator was asking the chairman to accept the amendments.

Mr. BAILEY. Of course the Senator would have a good deal to say about it, because the Senate would naturally and properly attach great weight to what the chairman of the committee would say. I can understand how the chairman would not feel authorized, speaking as chairman of the committee, to say that he would consent to that, but I can also understand that the chairman of the committee would not feel obliged to make any special resistance against an amendment of that kind.

I rose, however, for the purpose of suggesting this kind of a case to the Senator. Suppose it be a case where there is no question about the facts, and the findings of the Court of Claims filed since the bill was reported decide that a certain person is entitled to payment. To make it plain by illustration, the bill carries pay for certain claims for longevity pay. Now, suppose that a case identical with those provided for should have been reported since the bill was prepared. Surely there could be no possible reason for excluding that claim.

Mr. CRAWFORD. If the Senator will permit me, I have already stated with reference to overtime claims in the navy yards and longevity claims that they are so simple and the rule is so well settled that with those two classes, and those only, I feel that there would be little risk—in fact, none—in admitting those claims if they have been found by the Court of Claims.

Mr. BAILEY. I heard the Senator's statement about the overtime claims, but I did not hear it about the longevity claims.

Mr. CRAWFORD. It included the longevity claims.

Mr. BAILEY. That covers an amendment that I have to present.

Mr. CRAWFORD. The Senator can see, I think, with reference to the question whether or not a church was occupied, with the great variety of facts and findings that are passed upon, that that would be a very different case from a longevity claim or a claim for overtime at a navy yard.

Mr. BAILEY. Where the facts might be material, I agree to that.

Mr. CRAWFORD. That is just the distinction.

Now, Mr. President, the bill, so far as the amendments proposed by the Senate committee are concerned, has been acted upon and it is open to amendment; but I sincerely hope that general amendments will not be offered to the bill on the floor of the Senate where they have not been acted upon by the committee.

I want to say to the Senate that the bill is a most difficult kind of a bill to deal with. It embraces a vast number of claims. We were a good many months going over the different items, and the door must be closed some time against the consideration of claims that are to go into this particular bill. If we open that door to the consideration of a vast number of amendments of all kinds and characters, I shall almost despair of the bill being passed at all, because of the great mass of details that will involve discussion in the Senate.

Mr. WORKS rose.

Mr. NEWLANDS. Mr. President—

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. NEWLANDS. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Chair begs pardon. He had not noticed that the Senator from California was on the floor.

Mr. WORKS. I gave way to the Senator from Nevada.

Mr. NEWLANDS. I do not wish to interfere with the Senator from California.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Nevada will be stated.

The SECRETARY. On page 268, after the word "cents," in line 8, it is proposed to insert:

NEVADA.

To John Glanzmann, of Carson City, Ormsby County, in said State, \$3,296.

Mr. NEWLANDS. Mr. President, I will ask to have inserted in the Record a letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of John Glanzmann. I will ask the Secretary to read the findings of fact, and I should like also to have the entire communication inserted in the Record.

The PRESIDENT pro tempore. Without objection, it will be so ordered, and the Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, John Glanzmann, is a citizen of the United States, residing at Carson City, Ormsby County, State of Nevada, and from August 1, 1892, until May 8, 1903, he was employed as a watchman-laborer in the United States customhouse and post-office building at Carson City, Nev., at a salary of \$720 per annum. During the time he was so employed he worked 12 hours each day, not including Sundays and legal holidays.

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

III. The number of hours worked by claimant in excess of eight hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, \$720 per annum, would amount to \$3,296.

IV. It does not appear that said claim was ever presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as aforesaid.

The letter from the assistant clerk of the Court of Claims is as follows:

[Senate Document No. 522, Sixty-second Congress, second session.]
JOHN GLANZMANN.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS OF THE COURT IN THE CASE OF JOHN GLANZMANN AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, April 5, 1912.

HON. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid case, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional No. 13805, sub-No. 5. John Glanzmann v. The United States.]

STATEMENT OF CASE.

This is a claim for compensation of watchman-laborer employed under the Treasury Department for time alleged to have been worked in excess of eight hours per day.

On March 2, 1909, the Senate of the United States, by resolution, referred to the court, under the act of March 3, 1887, known as the Tucker Act, a bill in the following words:

"[S. 6903, Sixtieth Congress, first session.]

"A bill for the relief of John I. Conroy and others.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John I. Conroy, of St. Paul, Minn., and the other persons whose names appear on the memorial of John I. Conroy and others, such amount as may be found by the Court of Claims under section 14 of the act of Congress approved March 3, 1887, known as the Tucker Act, to be awarded them, respectively, for work in excess of eight hours in each calendar day while employed in the care of public buildings of the United States at St. Paul, Minn., and elsewhere."

The claimant appeared and filed his petition in this court on June 17, 1908, in which he makes substantially the following allegations:

That he is a citizen of the United States and resides at Carson City, Nev.

That your petitioner is one of the persons named in the memorial referred to in said bill, and has a claim against the United States for compensation for time worked by him in excess of eight hours per day while employed at the United States public building at Carson City, Nev., as watchman-laborer.

That the act of August 1, 1892, prescribes in mandatory terms for the benefit of all laborers and mechanics employed by the Government eight hours of labor in any one calendar day as the limit for a day's work.

That your petitioner has been required, notwithstanding this provision of law, to work 12 hours per day since the date of his employment, namely, August 1, 1890, to May 8, 1903.

That the greater part of the force of laborers and mechanics employed in the care of buildings under the Treasury Department is worked on an eight-hour schedule, and that the rates of pay for all employees are fixed by the department uniformly in accordance with the character and grade of the employment without regard to the number of hours per day they will be required to work.

That the extra work rendered by your petitioner was necessary for the protection and care of the Government building and machinery, and was not work which the claimant could have been required to have performed had he refused.

That the amount of this claim for extra pay for this work is much less than the Government would have been required to expend to employ an additional laborer or mechanic to comply with the eight-hour law.

That the Treasury Department has paid some of the employees in the same branch of the service, performing exactly the same kind of work, additional compensation for the services rendered in excess of eight hours per day.

That by requiring your petitioner to work in excess of eight hours per day the General Government has taken from him the equivalent of property without compensation, and under circumstances which almost uniformly in other branches of the public service, either by regulation or order of the head of the department or by action of Congress, has been compensated by granting extra pay either at the rate of regular pay or at an increased rate for such extra time.

That the amount which would be sufficient to compensate your petitioner for the extra work so performed by him at the rate of his regular compensation is the sum of \$3,296.

The case was brought to a hearing on the 6th day of December, 1909. Fred B. Rhodes, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant, and under his direction, appeared for the protection and defense of the interests of the United States.

The court, upon the evidence adduced, and after considering the arguments and briefs of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant, John Glanzmann, is a citizen of the United States, residing at Carson City, Ormsby County, State of Nevada, and from August 1, 1892, until May 8, 1903, he was employed as a watchman-laborer in the United States Customhouse and Post Office Building at Carson City, Nev., at a salary of \$720 per annum. During the time he was so employed he worked 12 hours each day, not including Sundays and legal holidays.

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

III. The number of hours worked by claimant in excess of eight hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, \$720 per annum, would amount to \$3,296.

IV. It does not appear that said claim was ever presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as aforesaid.

BY THE COURT.

Filed December 20, 1909.

A true copy.

Test this 3d day of April, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. NEWLANDS. I would ask the Senator from South Dakota whether he has any objection to this amendment?

Mr. CRAWFORD. Mr. President, the amendment proposed by the Senator from Nevada, if allowed, will establish a precedent under which the custodians and watchmen employed in Government buildings throughout the United States will be allowed overtime pay where they were on duty more than eight hours a day. There are a large number of claims of that kind. If we allow one of them, we should allow all. The committee declined to put any of that class of claims into the bill. The reason they did so was because of this finding, which is a finding that runs through every claim of that character and is made by the court in each and every case, where the court say:

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

It is very apparent that it would be practically impossible to observe an eight-hour law with reference to this class of employees—custodians and watchmen—and the understanding, according to this finding, at the time they were employed was that their yearly salary was fixed at a rate which was adequate, considering the size and character of the building, the cost of living, the locality where they lived, and so forth; that all those matters were taken into consideration in fixing their yearly compensation, without regard to the number of hours they might be required to labor. In other words, the Court of Claims finds that these men have received ample compensation for their work, whether they work more than eight hours a day or not, and that in fixing their yearly compensation all those matters were taken into consideration.

The Senator knows that, so far as his personal claim is concerned, it was submitted to me and it was submitted to the committee some time ago; but to allow this claim would make it necessary to go back through this bill and put into it several thousand claims of custodians, watchmen, and men of that class, in face of the fact that the Court of Claims finds that the consideration per annum for their services was fixed for the purpose of making it adequate and taking into consideration that they would work more than eight hours a day. So the committee could not, in fairness to the other claimants and to this finding of the court, consent to the amendment.

Mr. NEWLANDS. I would ask the Senator from South Dakota whether janitors and custodians of buildings are now required to work more than eight hours a day in the public service?

Mr. CRAWFORD. They are whenever the exigencies of the service appear to require it. Whether or not it is done as a general rule, I am not advised.

Mr. NEWLANDS. The Senator will observe that this is a general rule, that the Court of Claims find that during this entire period this man worked 12 hours a day instead of 8 hours.

Mr. CRAWFORD. And I think it is quite universal in the case of custodians that they work more than eight hours a day.

Mr. NEWLANDS. The Senator is not informed as to the practice?

Mr. CRAWFORD. They are simply custodians; and it is impossible, under the conditions, to observe a hard and fast eight-hour rule with reference to them; and their compensation, the court finds, is fixed, having in view the fact that they are to work more than eight hours a day.

Mr. NEWLANDS. In view of the Senator's statement that the committee has had this class of claims under consideration and did not deem it advisable to present them in this bill, I can, perhaps, hardly hope for the favorable consideration of this amendment now. I will, however, ask the Senator whether this matter was fully argued before the committee by counsel for these various claimants?

Mr. CRAWFORD. Mr. President, the Committee on Claims, since I have been a member of it, has not given, and, so far as I know its history, it never has undertaken to give the counsel who represent claimants hearings before the committee. I think, if the Senator from Nevada was a member of the committee, he would soon realize how utterly impossible it would be to do a thing of that kind.

The archives of that committee are crowded with claims of all sorts and kinds, together with voluminous briefs and long statements. The offices on the streets of Washington are crowded with attorneys whose chief occupation appears to be to hunt up and promote the collection of such claims, and they are on the trail, I will say to the Senator, more than eight hours a day. In the corridors of the Senate Office Building and elsewhere they not only seek interviews with the chairman, but they seek interviews with the members of the committee; and when they can not approach them they undertake to influence their clerks. If we were to undertake to open the hearings of that committee to argument by counsel upon these questions we never would be able to make a report of any kind. We have not granted such hearings, and I understand it has never been the practice of the committee to allow them. We look over the briefs submitted to us; we look over the findings; we give careful consideration to the claims. We gave very careful consideration to this class of claims and came to the conclusion that in the face of that finding they should not be placed in this bill.

Mr. MASSEY. Mr. President, so far as the particular claim is concerned covered by the amendment offered by my colleague [Mr. NEWLANDS], I desire to say that I know personally, and have known for many years personally, the claimant, and I do not believe he would be insisting in this body or before any body representing the Government of the United States upon the payment of a claim if it were not just.

I desire also at this time to state that, in determining the question of justice as between claimants and the Government of the United States, a matter of establishing or breaking a precedent, so far as I am individually concerned, will have but very little weight. I believe it is the duty of the Senate to break precedents whenever a just claim is presented against the Government of the United States, and that it is the duty of the Senate to establish precedents whenever it is necessary to establish just claims against the Government of the United States.

Out in our State we have not been asking much and we have gotten less, but we do insist that this is a just claim so far as the Government of the United States is concerned, and that this great Government of ours can not afford to treat this claimant, based upon precedent, otherwise than justly in the allowance of his claim.

I believe, Mr. President, that I am a member of the Committee on Claims. I want frankly to confess that I have never had an opportunity of meeting with that committee, and I know nothing of its burdens or the character of its labors. I believe, however, the committee have been actuated by a desire to segregate from the very many claims that are presented against the Government those which are fair and just and to award to just claimants that which is justly due them; but being personally acquainted with the man and the conditions under

which this labor was performed, conditions different from those existing in every other State in the Union, I believe the Senate of the United States can not afford to reject the request for that consideration at the hands of Senators to which the claim is entitled. I join my colleague in asking that the amendment may be adopted.

Mr. NEWLANDS. Mr. President, I observe that the Senator from Idaho [Mr. BORAH] desired to be heard upon this matter, but I do not now see him upon the floor. I will state, Mr. President, that in view of the chairman's statement that the committee considered a large number of claims of this class, aggregating several thousand, and concluded to insert none of them in this bill, I do not feel like pressing the amendment to a vote, and I will withdraw it temporarily, with a view to consulting with my colleague and with other Members of the Senate who have presented similar claims.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). The amendment is temporarily withdrawn.

Mr. GALLINGER. Mr. President—

Mr. CRAWFORD. May I be allowed to make a statement to the Senator from Nevada?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD. I find from the report that there are 88 claimants whose claims are very similar to this, and the aggregate amount involved is \$97,752.20. There are 88 claims of custodians, and in every one the court has found that in fixing their yearly compensation the Government took into consideration the character of their employment and the necessity of their working for a longer period than eight hours a day and fixed the compensation with that fact in view. We treated them all alike and left them out of the bill.

Mr. NEWLANDS. May I ask the Senator from Idaho whether he wishes to say anything upon this subject?

Mr. BORAH. I did not understand the Senator.

Mr. NEWLANDS. I understood the Senator was claiming the attention of the Chair a few moments ago with a view of saying something regarding this bill.

Mr. BORAH. It was not in connection with this matter.

Mr. NEWLANDS. I will not withdraw the amendment, but will simply withhold it temporarily, in order to consult with my colleague in regard to it.

The PRESIDING OFFICER. The Senator from Nevada withholds the amendment.

Mr. GALLINGER. I submit a proposed amendment, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire submits an amendment, which will be stated.

Mr. WORKS. Mr. President, I was entitled to the floor and yielded to the Senator from Nevada [Mr. NEWLANDS], but I did not intend to open the door for all Senators to offer amendments. I have an amendment, and, if the Senator will allow me a moment, I think we can dispose of the amendment I am about to offer.

Mr. GALLINGER. If the Senator from California was entitled to the floor—I had no knowledge of that fact—I will allow my amendment to rest on the table for a moment.

Mr. WORKS. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from California offers an amendment, which will be stated.

The SECRETARY. On page 259, after line 25, it is proposed to insert:

To Edgar L. Swaine, administrator of the estate of Peter T. Swaine, deceased, of Los Angeles, \$2,175.09.

To Oliver D. Greene, administrator of the estate of Oliver D. Greene, deceased, of Berkeley, \$2,433.78.

Mr. WORKS. Mr. President, these are two of the longevity claims that have been adjudicated by the Court of Claims since the bill was reported. As I understand, under the statement of the chairman of the committee, these are amendments which should be allowed.

Mr. CRAWFORD. Has the Senator the reports from the Court of Claims on his desk?

Mr. WORKS. I have.

Mr. CRAWFORD. Will the Senator hand them to me?

Mr. WORKS. Certainly.

Mr. CRAWFORD. If I find, as I have no doubt I shall, that the cases come within the rule, I will offer no objection.

Mr. LODGE. Let the findings be read.

Mr. CRAWFORD. I ask that they be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, Edgar L. Swaine, is a citizen of the United States, residing at Los Angeles, Cal., and is the administrator of the estate of

Peter T. Swaine, deceased, who, during his lifetime, was an officer in the United States Army, having been appointed as a cadet at the United States Military Academy September 1, 1847. He graduated therefrom and was appointed second lieutenant July 1, 1852; first lieutenant, August 8, 1855; captain, May 14, 1861; major, December 29, 1865; lieutenant colonel, October 24, 1874.

II. Said decedent was paid his first longevity ration from July 1, 1857, and one additional ration for each five years subsequent thereto. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$2,200.29, from which would be deducted overpayments amounting to \$25.20, leaving a balance of \$2,175.09.

III. The claim was presented to the accounting officers of the Treasury and was disallowed December 27, 1890.

Except as above stated the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to the court as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court decided in the case of United States v. Watson (130 U. S., 80) was service in the Army.

By THE COURT.

Filed June 17, 1912.

A true copy.

Test this 22d day of June, 1912.

[SEAL.]

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

Mr. CRAWFORD. All these claims are exactly of that character. One of the auditors of the War Department rejected a number of these claims on the ground that the officers were not entitled to recover for the period during which the young men were cadets at West Point. The question was carried to the United States Supreme Court, and it held that they were entitled for that period.

Now the claims are presented under that decision, and the auditor allows them, with the exception of those which had been presented to the prior auditor and rejected by him. They refuse to allow them, on the ground that it is not their policy to reverse the decision of one of the prior officers. That is the technical point which is involved.

If we allow any of them, this is just as good as the rest. That is all there is to it.

Mr. WORKS. Let me ask the Senator from South Dakota whether the claims which have already been allowed and included in the bill are of similar kind.

Mr. CRAWFORD. They are. I say, if we allow any of them these are the same as the rest.

The amendment was agreed to.

Mr. WORKS. I ask that the findings of fact in the other case may be included in the Record. Only one of them was read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The findings of fact in the Greene case are as follows:

FINDINGS OF FACT.

I. Claimant's decedent was an officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1849. He graduated therefrom and was appointed second lieutenant, Third Artillery, July 1, 1854; promoted to be first lieutenant April 25, 1861, and captain and assistant adjutant general August 3, 1861; major and assistant adjutant general, July 17, 1862; lieutenant colonel and assistant adjutant general August 20, 1862; and colonel and assistant adjutant general July 9, 1892.

II. In settlement of said decedent's account by the accounting officers of the Treasury, he has been paid first longevity ration from July 1, 1859, and one additional ration for each five years subsequent thereto, and in a settlement made November 17, 1890, said officers refused to count his service as a cadet at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) claimant would be entitled to additional allowances as follows, as reported by the Auditor for the War Department.

First longevity ration, July 1, 1854, to June 30, 1859	\$474.70
Second longevity ration, July 1, 1859, to June 30, 1864	548.10
Third longevity ration, July 1, 1864, to June 30, 1869	663.60
Fourth longevity increase, July 1, 1869, to June 30, 1874	1,103.98
	2,790.38
From which should be deducted tax	\$45.21
One-half of above amount while on half-pay status from July 20, 1865, to Aug. 6, 1865	4.50
Longevity increase under the Tyler decision allowed by settlement 6088, confirmed by the comptroller, June 20, 1883, from July 15, 1870, to June 30, 1874	306.89
	356.60
Leaving a balance of	2,433.78

By THE COURT.

Filed May 20, 1912.

A true copy.

Test this 27th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. I ask that the report, including the findings of fact by the Court of Claims in respect to the cases to which amendments were adopted yesterday, being two similar longevity claims, may be printed in the RECORD, so as to make the record complete.

The PRESIDING OFFICER. In the absence of objection, it is so ordered.

The reports are as follows:

[House Document No. 795, Sixty-second Congress, second session.]

FRANK H. PHIPPS.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF FRANK H. PHIPPS AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,

Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional, No. 15557.
Frank H. Phipps v. The United States.]

STATEMENT OF CASE.

This case was referred to the court by the Committee on War Claims of the House of Representatives on December 9, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 13th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Springfield, State of Massachusetts.

That he entered the United States Military Academy as a cadet July 1, 1859; was appointed first lieutenant of ordnance, June 11, 1863; promoted captain, June 23, 1874; major, December 4, 1882; lieutenant colonel, July 7, 1898; colonel, February 17, 1903; and was retired with the rank of brigadier general, August 9, 1907.

That during the period of the petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870; now sec. 1262, R. S.)

"... the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

That under a decision of the Second Comptroller of the Treasury made July 24, 1838, the accounting officers of the Treasury, in the settlement of the petitioner's accounts, did not count his service at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States v. Watson (130 U. S., 80), the petitioner made application to the proper accounting officers of the Treasury for a settlement of his longevity pay and allowances in accordance with said decision, and, under the then prevailing ruling that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, petitioner's application was rejected December 15, 1890.

That upon the revocation of that ruling by the Comptroller of the Treasury on May 18, 1908, the petitioner again made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due him for service prior to February 24, 1881, but the Auditor for the War Department, May 2, 1910, refused to consider the petitioner's claim, because it had been previously disallowed by the settlement of 1890.

That by this action of the accounting officers in refusing to allow petitioner credit for his service at the Military Academy prior to February 24, 1881, there has been withheld from the petitioner the sum of \$2,361.92, the amount he would have received had he been dealt with according to law.

That this claim has not been paid, assigned, or transferred, in whole or in part, and that petitioner has all his life been loyal to the Government of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein, Frank H. Phipps, is an officer in the United States Army, having entered the United States Military Academy July 1, 1859. He graduated therefrom and was appointed first lieutenant of ordnance June 11, 1863; was promoted to be captain June 23, 1874; major, December 4, 1882; lieutenant colonel, July 7, 1898; colonel, February 17, 1903; and was retired August 9, 1907.

II. Claimant was paid his first longevity ration from June 11, 1868, and 10 per cent increase each five years subsequent thereto, and by settlements with the accounting officers he was paid longevity increase under the Tyler and Morton decisions, but said officers refused to allow longevity pay under the Watson decision.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant's first longevity period

should begin July 1, 1864, and there would be due him, as reported by the Auditor for the War Department, the additional sum of \$2,314.17.

By THE COURT.

Filed May 20, 1912.

A true copy.

Test this 29th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[House Document No. 790, Sixty-second Congress, second session.]

CLIFFORD H. FROST, TRUSTEE.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF CLIFFORD H. FROST AND FRANK B. McALLISTER, TRUSTEES, UNDER THE WILL OF THE ESTATE OF ZEALOUS B. TOWER, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,

Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims. Congressional, No. 14503. Clifford H. Frost and Frank B. McAllister, trustees, under the will of the estate of Zealous Bates Tower, deceased, v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay alleged to be due on the service of said Zealous Bates Tower in the Army of the United States was transmitted to this court by order of the Committee on War Claims of the House of Representatives on February 26, 1910.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Fred C. Coldern appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimants, Clifford H. Frost and Frank Barr McAllister, in their petition, make the following allegations:

That they are trustees, under his will, of the estate of said Zealous Bates Tower.

That the said Zealous Bates Tower entered the military service of the United States as a cadet in the United States Military Academy July 1, 1837, from which date he served as an officer of the United States Army until placed on the retired list January 10, 1883, as a colonel, and served thereafter on the retired list until his death, March 20, 1900.

That under the act of July 5, 1838, he became entitled to an additional ration for each five years' service, and under the act of July 15, 1870, he became entitled to 10 per cent increase of pay for each five years of service, but in computing such allowance of longevity rations and pay, computation was made on the basis that his service began at the date he was appointed second lieutenant, after graduating from the Military Academy, instead of the date of entering said Military Academy.

That under the decisions in the case of United States v. Tyler (105 U. S., 244), United States v. Morton (112 U. S., 1), and United States v. Watson (130 U. S., 80), longevity rations and pay should have been computed on the basis that his service began when he entered the Military Academy, and his estate is therefore entitled to the following amounts, being the difference between the amounts actually paid him and the amounts to which he was entitled for said periods:

First longevity ration, July 1, 1842, to June 30, 1846, inclusive	\$292.20
Second longevity ration, July 1, 1847, to June 30, 1851, inclusive	292.20
Third longevity ration, July 1, 1852, to June 30, 1856, inclusive	292.20
Fourth longevity ration, July 1, 1857, to June 30, 1861, inclusive	438.30
Fifth longevity ration, Jan. 15, 1866, to June 30, 1866, inclusive	59.70
Sixth longevity ration, July 1, 1867, to July 14, 1870, inclusive	333.00

Total	1,707.60
Less internal-revenue tax	37.79

Leaving a balance of 1,669.81

That claim for said difference of pay was filed with the Auditor for the War Department and disallowed by that officer on the ground that under the rulings in force in that office when his pay was computed, no allowance was made for service as cadet in the United States Military Academy, and by said adjudication said office had now lost jurisdiction and could not reopen the account.

That said claim is correct and just; that it has not been paid, assigned in whole or in part; and that said decedent was loyal to the Government of the United States throughout the Civil War.

The court upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimants Clifford H. Frost and Frank Barr McAllister are citizens of the United States, residing in Boston, State of Massachusetts, and are trustees under the will of the estate of Zealous Bates Tower, deceased, who was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1837. He graduated therefrom and was appointed second lieutenant of Engineers July 1, 1841; was promoted to be first lieutenant April 24, 1847; captain July 1, 1855; major August 6, 1861; brigadier general of Volunteers November 23, 1861, to January 15, 1866; was appointed lieutenant colonel of Engineers November 11, 1865; colonel January 13, 1874; was retired January 10, 1883; and died March 20, 1900.

II. Said decedent was paid his longevity increase ration for each five years' service from July 1, 1846, and his claim for longevity pay and allowances under the Watson decision was disallowed by the accounting officers of the Treasury.

III. Under the decision of the Supreme Court in the case of *United States v. Watson* (130 U. S., 80) there would be due said decedent additional longevity allowances, as reported by the Auditor for the War Department, amounting to the sum of \$1,669.51.

BY THE COURT.

Filed May 13, 1912.

A true copy.

Test this 14th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. GALLINGER. I ask that the amendment I offered may now be read.

The SECRETARY. On page 203, after line 18, it is proposed to insert:

Edward B. Prime, \$339.45.

Mr. GALLINGER. Mr. President, this is a case for overtime work in the navy yard, and the findings of the court were made four days after the report of the committee. It is absolutely based upon fact and ought to be allowed.

Mr. CRAWFORD. I wish to say this in regard to Navy overtime: They are the claims of laborers in navy yards.

Mr. GALLINGER. This man was a mechanic.

Mr. CRAWFORD. The Secretary of the Navy issued a circular, which went to all the employees, in which he fixed the hours of employment within certain hours—an eight hours' service. He specifically stated that in cases where the men worked beyond the term of eight hours they would be allowed for the extra time at the same rate. They went on and performed the service on the strength of this order issued by the Secretary of the Navy.

They had their claims adjudicated. There can be no question about them. The timekeeper kept the number of hours they worked; the wage they were receiving was a matter of record; and the whole thing is a mere matter of computation as to what the overtime amounted to. That has been found by the Court of Claims.

The court found that these men worked so many extra hours; that they were receiving such and such a wage, and the proportionate amount for the extra time was so much, and the claims of the bill are claims of that kind which have been reported to the committee after it made its report.

These claims now offered are exactly of the same character, with the same sort of finding, but they have come in since the committee made its report.

I see no reason why, if we allow any of them, these regularly reported since the bill was reported should not be inserted in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New Hampshire.

The amendment was agreed to.

Mr. BAILEY. Mr. President, I offer an amendment, to be inserted after line 2 on page 267.

The SECRETARY. On page 267, after line 2, insert:

TEXAS.

To the Union Trust Co., of the District of Columbia, administrator de bonis non of the estate of Thomas Murray Tolman, deceased, \$2,126.24.

Mr. BAILEY. Mr. President, the amendment involves a case in all respects similar to the one which the Senator from California has just explained to the Senate, and, without detaining the Senate, I will simply ask that the finding of the Court of Claims be incorporated in the Record.

Mr. CRAWFORD. Is it a longevity claim?

Mr. BAILEY. It is a longevity claim.

The PRESIDING OFFICER. Without objection, the finding of facts will be inserted in the RECORD, as requested by the Senator from Texas.

The findings of fact are as follows:

FINDINGS OF FACT.

I. The claimant herein, the Union Trust Co. of the District of Columbia, is the administrator de bonis non of the estate of Thomas Murray Tolman, deceased, who during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1861. He graduated therefrom and was appointed a second lieutenant, Sixth United States Cavalry, June 23, 1865; was promoted to first lieutenant January 25, 1866, captain November 18, 1867, and died December 14, 1883.

He was paid his first longevity increase from June 23, 1870, and an additional 10 per cent for each five years subsequent thereto, but the accounting officers of the Treasury in computing his longevity pay and allowances refused to count his service as a cadet at the Military Academy.

II. Under the decision of the Supreme Court in the case of *United States v. Watson* (130 U. S., 80) said decedent would be entitled to additional allowances on account of longevity, as reported by the Auditor for the War Department, amounting to \$2,142.56, from which

would be deducted \$16.32 overpaid said decedent, leaving a balance of \$2,126.24.

BY THE COURT.

Filed May 20, 1912.

A true copy.

Test this 29th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas.

The amendment was agreed to.

Mr. ROOT. Mr. President, I offer an amendment to the bill relating to certain longevity claims. I think they are on exactly the same basis as those included in the bill, all of them having findings of the Court of Claims.

Mr. CRAWFORD. The Senator, I suppose, wants them under the head of the New York claims?

Mr. ROOT. Yes.

The SECRETARY. On page 266, after line 5, in the New York items, it is proposed to insert:

To Diantha G. Littlejohn, administratrix of the estate of John Egan, deceased, of Brooklyn, \$2,276.91.

To Ida C. Hughes and Ellen C. McNally, daughters and sole heirs at law of Christopher H. McNally, deceased, of New York City, \$2,559.21.

To George H. Chadeayne, ancillary executor of Joseph H. McArthur, deceased, late of the United States Army, \$1,488.84.

To Hamilton Trust Co., of Brooklyn, N. Y., executor of Loomis Lyman Langdon, deceased, late of the United States Army, \$1,793.59.

To William E. Carlin, of New York City, administrator of the estate of William Passmore Carlin, deceased, late of the United States Army, \$1,250.73.

To Isabella H. Silvey, widow and administratrix of William Silvey, late of the United States Army, \$1,549.30.

The amendment was agreed to.

The PRESIDING OFFICER. Does the Senator from New York want the findings of facts in connection with these cases printed in the RECORD?

Mr. ROOT. I think they should be.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The findings of facts are as follows:

DIANTHA G. LITTLEJOHN, ADMINISTRATRIX.

FINDINGS OF FACT.

I. The claimant herein, Diantha G. Littlejohn, is a citizen of the United States and a resident of Brooklyn, State of New York, and is the duly appointed administratrix of the estate of John Egan, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1858.

He graduated therefrom and was appointed second lieutenant, First Artillery, June 17, 1862; was promoted to be first lieutenant May 19, 1864; captain, Eleventh Infantry, July 28, 1866; accepted his appointment November 26, 1866. He was unassigned from April 14, 1869; assigned to the Twenty-third Infantry September 1, 1869; transferred to the Fourth Artillery January 1, 1871; promoted to be major, First Artillery, January 25, 1889; and retired September 1, 1896. He died July 23, 1906.

II. Said decedent was paid his first longevity ration from June 17, 1867, and 10 per cent increase for every five years subsequent thereto, and by settlement in 1883 and 1885 he was paid longevity pay under the rules and decisions then in force. Under the decision of the Supreme Court in the case of *United States v. Watson* (130 U. S., 80), said decedent would be entitled to additional allowances for longevity, as reported by the Auditor for the War Department, in the sum of \$2,276.91.

III. The claim was presented to the accounting officers of the Treasury and same was disallowed November 15, 1890. Except as above stated, the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of *United States v. Watson* (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.

A true copy.

Test this 22d day of June, 1912.

[SEAL.]

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

IDA C. HUGHES AND ELLEN C. McNALLY.

FINDINGS OF FACT.

I. The claimants herein are citizens of the United States residing in the city of New York, State of New York, and are the sole heirs of Christopher H. McNally, who during his lifetime served in the United States Army, having served as an enlisted man from December 21, 1848, to June 14, 1855, when he was discharged and accepted a commission as second lieutenant Mounted Rifles. He was promoted to be first lieutenant May 5, 1861, captain September 28, 1861, and retired December 24, 1866.

II. Said decedent was paid longevity pay and allowances under the Tyler decision, but the accounting officers of the Treasury refused to count his service as an enlisted man in computing longevity pay and allowances.

III. Under the decision of this court in the case of *James Stewart*, No. 20810, decided February 23, 1899, claimants would be entitled to additional longevity increase amounting to \$2,666.10, as reported by

the Auditor for the War Department, from which would be deducted overpayments amounting to \$106.89, leaving a balance of \$2,550.21.

IV. Said claim was presented to the accounting officers of the Treasury and was disallowed November 3, 1883. Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as hereinbefore set forth in the statement of the case, and no evidence is adduced showing why claimants did not earlier prosecute said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of said decedent's service as an enlisted man, which service this court decided, in the case of James Stewart, No. 20810, was service in the Army.

By THE COURT.

Filed.

A true copy.

Test this 27th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,

Assistant Clerk Court of Claims.

GEORGE H. CHADAYNE, EXECUTOR.

FINDINGS OF FACT.

I. Claimant's decedent, Joseph H. McArthur, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1845. He graduated therefrom and was appointed brevet second lieutenant, Second Infantry, July 1, 1849; second lieutenant, Fifth Infantry, August 12, 1850; first lieutenant, Second Cavalry, April 11, 1855; was promoted to be captain, Fifth Cavalry, June 28, 1860, major, Third Cavalry, September 25, 1863, and retired November 2, 1863. He was on active duty from date of retirement to February 8, 1866; from May 24, 1866, to May 10, 1867, and from October 2, 1867, to November 30, 1867. He served as lieutenant colonel, Sixth Pennsylvania Cavalry, from September 11, 1861, to February 15, 1862, and died January 23, 1902.

II. Said decedent was paid his first longevity ration from July 1, 1854, and one additional ration for each five years subsequent thereto, and his claim for longevity increase on account of his service as a cadet was disallowed by the accounting officers April 4, 1891.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$1,488.84.

By THE COURT.

Filed May 27, 1912.

A true copy.

Test this 28th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,

Assistant Clerk Court of Claims.

HAMILTON TRUST CO., EXECUTOR.

FINDINGS OF FACT.

I. Claimant's decedent, Loomis Lyman Langdon, was an officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1850. He was graduated therefrom and appointed a second lieutenant July 1, 1854; promoted to be first lieutenant July 13, 1860; captain August 28, 1861; major March 20, 1870; lieutenant colonel December 1, 1883; colonel January 25, 1889; and retired as such October 25, 1894.

In the settlement of his accounts by the accounting officers of the Treasury said decedent has been paid on account of longevity commencing July 1, 1869, and one additional ration for each five years subsequent thereto, and said accounting officers refused by certificate No. 130306, confirmed by the comptroller December 5, 1890, to count his service at the Military Academy as service in the Army in computing longevity pay and allowances for service prior to February 24, 1881.

II. Under the decision of the Supreme Court in the case United States v. Watson (130 U. S., 80) said decedent's first longevity period should commence July 1, 1855, and the difference between the amounts which he has received and the amount to which he would be entitled under said decision, as reported by the Auditor for the War Department, is as follows:

First longevity ration, July 1, 1855, to June 30, 1859-----	\$401.70
Second longevity ration, July 1, 1860, to June 30, 1864-----	438.30
Third longevity ration, July 1, 1865, to June 30, 1869-----	500.75
Fourth longevity increase, July 1, 1870, to June 30, 1874-----	494.39
Total-----	1,835.14
Less tax-----	31.67
	1,803.47

from which should be deducted an overpayment of \$9.88, leaving a balance of \$1,793.59.

By THE COURT.

Filed May 13, 1912.

A true copy.

Test this 14th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,

Assistant Clerk Court of Claims.

WILLIAM E. CARLIN, ADMINISTRATOR.

FINDINGS OF FACT.

I. Claimant's decedent, William P. Carlin, was during his lifetime an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1846. He graduated therefrom and was appointed brevet second lieutenant, Sixth United States Infantry, July 1, 1850; was promoted second lieutenant April 15, 1851; first lieutenant March 3, 1855; captain March 2, 1861; major, Sixteenth United States Infantry, February 8, 1864; lieutenant colonel, Seventeenth United States Infantry, July 1, 1872; colonel, Fourth Infantry, April 11, 1882; brigadier general May 17, 1893; retired November 24, 1893; and died October 4, 1903. He served as colonel, Thirty-eighth Illinois Infantry, from August 15, 1861, to November 28, 1862, and as brigadier general of Volunteers from November 29, 1862, to August 24, 1865.

II. Said decedent was paid his first longevity ration from July 1, 1855, and one additional ration for each five years subsequent thereto, except for the period he served as a brigadier general.

Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional longevity allowances after deducting overpayments, as reported by the Auditor for the War Department, amounting to \$1,250.73.

By THE COURT.

Filed June 17, 1912.

A true copy.

Test this 21st day of June, 1912.

[SEAL.]

ARCHIBALD HOPKINS,

Chief Clerk.

ISABELLA H. SILVEY, ADMINISTRATRIX.

FINDINGS OF FACT.

I. Claimant's decedent, William Silvey, was, during his lifetime, an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1845. He graduated therefrom and was appointed a second lieutenant, Third United States Artillery, on July 1, 1849; was promoted to be first lieutenant October 31, 1853; captain, May 14, 1861; major, February 7, 1875, and retired as such May 1, 1875.

II. Said decedent was paid his first longevity increase ration from July 1, 1854, and one additional ration for each five years subsequent thereto, and the accounting officers of the Treasury have refused to count his said service as a cadet at the military Academy in computing longevity allowances for services prior to February 24, 1881.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due claimant, after deducting overpayments and internal-revenue tax, the sum of \$1,549.30, as reported by the Auditor for the War Department.

By THE COURT.

Filed May 6, 1912.

A true copy.

Test this 11th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,

Assistant Clerk Court of Claims.

Mr. BRANDEGEE. I offer the amendment I send to the desk. It is a longevity claim exactly on a par with those already accepted. I ask that the findings of the Court of Claims may be printed in the RECORD.

Mr. CRAWFORD. I will say that the amendment was handed to me by the Senator from Connecticut, and I am satisfied it is exactly the same as the others referred to.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 259, after line 25, and after the amendments already agreed to at that point, it is proposed to insert:

CONNECTICUT.

To Lizzie F. Remington, of Windsor, executrix of Philip Halsey Remington, deceased, late of the United States Army, \$2,297.81.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of fact will be printed in the RECORD as requested by the Senator from Connecticut.

The findings of fact are as follows:

I. Claimant's decedent, Philip Halsey Remington, was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1857. He graduated therefrom and was appointed a second lieutenant, Eighth United States Infantry, June 24, 1861; was promoted to be first lieutenant August 23, 1861; captain July 28, 1866, and retired as such February 20, 1891.

In settlement of said decedent's account by the accounting officers of the Treasury in 1890 he was paid his first longevity ration from June 24, 1866, and one additional ration for each five years subsequent thereto, and said officers refused to count his service as a cadet at the Military Academy in computing longevity pay and allowances for service prior to February 24, 1881.

II. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) and the case of United States v. Tyler (105 U. S., 244) said decedent's first longevity ration should begin July 1, 1862, and the difference between the amounts he has received and the amounts to which he would be entitled under said decisions, as reported by the Auditor for the War Department, amounts to \$2,297.81, no part of which has been paid.

By THE COURT.

Filed May 20, 1912.

A true copy.

Test this 29th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,

Assistant Clerk Court of Claims.

Mr. JOHNSTON of Alabama. I offer the amendment I send to the desk.

The SECRETARY. On page 267, at the end of line 16, after the words "this act," it is proposed to insert:

And section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed.

Mr. CRAWFORD. I did not catch the force of the amendment. I wish the Secretary would read it again. I should like an opportunity to examine it.

Mr. JOHNSTON of Alabama. How much time does the Senator from South Dakota want? This bill will probably be passed to-day.

Mr. GALLINGER, Mr. SMITH of Arizona, and others. Oh, no. Mr. JOHNSTON of Alabama. I am perfectly willing to have it go over if the bill is not to be disposed of to-day.

Mr. CRAWFORD. I ask that the amendment be printed and go over.

Mr. JOHNSTON of Alabama. It has already been printed and referred to the committee, but I will consent to that course.

I will state here now that the Judiciary Committee of the Senate has twice reported unanimously for the repeal of this statute. It is a statute which prevents the heirs of certain officers who belonged to the Regular Army and went South when the contest between the two sections arose from being paid some small sums of money that are due.

In the case of Stonewall Jackson there would be \$292 coming to his heirs; in the case of Robert E. Lee, \$1,400; in the case of Joseph Wheeler, \$219. That is the class of claims involved, and they amount to about \$100,000. I will ask the Senator from South Dakota to look into it, if he desires to do so, before to-morrow.

Mr. CRAWFORD. I should like to have the amendment printed, if the Senator please—

Mr. JOHNSTON of Alabama. It has already been printed.

Mr. CRAWFORD. And go to the committee. If it involves the expenditure of a substantial sum, I should certainly want to examine it carefully.

The PRESIDING OFFICER. Without objection, it will be so ordered.

There are messages from the President which the Chair thinks ought to be laid before the Senate. One is very brief.

Mr. CRAWFORD. We close legislative proceedings at 1 o'clock.

The PRESIDING OFFICER. At 1.30.

ANNUAL REPORT OF THE ISTHMIAN CANAL COMMISSION (H. DOC. NO. 965).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Inter-oceanic Canals and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith, in pursuance of the requirements of chapter 1302 (32 Stats., p. 483), "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902, the Annual Report of the Isthmian Canal Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 6, 1912.

The PRESIDING OFFICER. There is another message from the President of the United States.

Mr. CRAWFORD. So that Senators may not be misled about the present status of the bill, I will ask that it be laid aside for the purpose of having the message of the President read.

The PRESIDING OFFICER. That is not necessary, but without objection that will be the order. Messages of the President are privileged.

Mr. CRAWFORD. That may be. I am not familiar with the rule.

FISCAL, JUDICIAL, MILITARY, AND INSULAR AFFAIRS (H. DOC. NO. 1067).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, ordered to lie on the table, and to be printed:

To the Senate and House of Representatives:

On the 3d of December I sent a message to the Congress, which was confined to our foreign relations. The Secretary of State makes no report to the President or to Congress, and a review of the history of the transactions of the State Department in one year must therefore be included by the President in his annual message or Congress will not be fully informed of them. A full discussion of all the transactions of the Government, with a view to informing the Congress of the important events of the year and recommending new legislation, requires more space than one message of reasonable length affords. I have therefore adopted the course of sending three or four messages during the first 10 days of the session, so as to include reference to the more important matters that should be brought to the attention of the Congress.

BUSINESS CONDITIONS.

The condition of the country with reference to business could hardly be better. While the four years of the administration now drawing to a close have not developed great speculative expansion or a wide field of new investment, the recovery and progress made from the depressing conditions following the panic of 1907 have been steady and the improvement has been clear and easily traced in the statistics. The business of the country is now on a solid basis. Credits are not unduly extended, and every phase of the situation seems in a state of

preparedness for a period of unexampled prosperity. Manufacturing concerns are running at their full capacity and the demand for labor was never so constant and growing. The foreign trade of the country for this year will exceed \$4,000,000,000, while the balance in our favor—that of the excess of exports over imports—will exceed \$500,000,000. More than half our exports are manufactures or partly manufactured material, while our exports of farm products do not show the same increase because of domestic consumption. It is a year of bumper crops; the total money value of farm products will exceed \$9,500,000,000. It is a year when the bushel or unit price of agricultural products has gradually fallen, and yet the total value of the entire crop is greater by over \$1,000,000,000 than we have known in our history.

CONDITION OF THE TREASURY.

The condition of the Treasury is very satisfactory. The total interest-bearing debt is \$963,777,770, of which \$134,631,980 constitute the Panama Canal loan. The noninterest-bearing debt is \$378,301,284.90, including \$346,681,016 of greenbacks. We have in the Treasury \$150,000,000 in gold coin as a reserve against the outstanding greenbacks; and in addition we have a cash balance in the Treasury as a general fund of \$167,152,478.99, or an increase of \$26,975,552 over the general fund last year.

RECEIPTS AND EXPENDITURES.

For three years the expenditures of the Government have decreased under the influence of an effort to economize. This year presents an apparent exception. The estimate by the Secretary of the Treasury of the ordinary receipts, exclusive of postal revenues, for the year ending June 30, 1914, indicates that they will amount to \$710,000,000. The sum of the estimates of the expenditures for that same year, exclusive of Panama Canal disbursements and postal disbursements payable from postal revenues, is \$732,000,000, indicating a deficit of \$22,000,000. For the year ending June 30, 1913, similarly, estimated receipts were \$667,000,000, while the total corresponding estimate of expenditures for that year, submitted through the Secretary of the Treasury to Congress, amounted to \$656,000,000. This shows an increase of \$76,000,000 in the estimates for 1914 over the total estimates of 1913. This is due to an increase of \$25,000,000 in the estimate for rivers and harbors for the next year on projects and surveys authorized by Congress; to an increase under the new pension bill of \$32,500,000; and to an increase in the estimates for expenses of the Navy Department of \$24,000,000. The estimate for the Navy Department for the year 1913 included two battleships. Congress made provision for only one battleship, and therefore the Navy Department has deemed it necessary and proper to make an estimate which includes the first year's expenditure for three battleships in addition to the amount required for work on the uncompleted ships now under construction. In addition to the natural increase in the expenditures for the uncompleted ships, and the additional battleship estimated for, the other increases are due to the pay required for 4,000 or more additional enlisted men in the Navy; and to this must be added the additional cost of construction imposed by the change in the 8-hour law which makes it applicable to ships built in private shipyards.

With the exceptions of these three items, the estimates show a reduction this year below the total estimates for 1913 of more than \$5,000,000.

The estimates for Panama Canal construction for 1914 are \$17,000,000 less than for 1913.

OUR BANKING AND CURRENCY SYSTEM.

A time when panics seem far removed is the best time for us to prepare our financial system to withstand a storm. The most crying need this country has is a proper banking and currency system. The existing one is inadequate, and everyone who has studied the question admits it.

It is the business of the National Government to provide a medium, automatically contracting and expanding in volume, to meet the needs of trade. Our present system lacks the indispensable quality of elasticity.

The only part of our monetary medium that has elasticity is the bank-note currency. The peculiar provisions of the law requiring national banks to maintain reserves to meet the call of the depositors operates to increase the money stringency when it arises rather than to expand the supply of currency and relieve it. It operates upon each bank and furnishes a motive for the withdrawal of currency from the channels of trade by each bank to save itself, and offers no inducement whatever for the use of the reserve to expand the supply of currency to meet the exceptional demand.

After the panic of 1907 Congress realized that the present system was not adapted to the country's needs and that under

it panics were possible that might properly be avoided by legislative provision. Accordingly a monetary commission was appointed which made a report in February, 1912. The system which they recommended involved a National Reserve Association, which was, in certain of its faculties and functions, a bank, and which was given through its governing authorities the power, by issuing circulating notes for approved commercial paper, by fixing discounts, and by other methods of transfer of currency, to expand the supply of the monetary medium where it was most needed to prevent the export or hoarding of gold and generally to exercise such supervision over the supply of money in every part of the country as to prevent a stringency and a panic. The stock in this association was to be distributed to the banks of the whole United States, State and National, in a mixed proportion to bank units and to capital stock paid in. The control of the association was vested in a board of directors to be elected by representatives of the banks, except certain ex officio directors, three Cabinet officers, and the Comptroller of the Currency. The President was to appoint the governor of the association from three persons to be selected by the directors, while the two deputy governors were to be elected by the board of directors. The details of the plan were worked out with great care and ability, and the plan in general seems to me to furnish the basis for a proper solution of our present difficulties. I feel that the Government might very properly be given a greater voice in the executive committee of the board of directors without danger of injecting politics into its management, but I think the federation system of banks is a good one, provided proper precautions are taken to prevent banks of large capital from absorbing power through ownership of stock in other banks. The objections to a central bank it seems to me are obviated if the ownership of the reserve association is distributed among all the banks of a country in which banking is free. The earnings of the reserve association are limited in percentage to a reasonable and fixed amount, and the profits over and above this are to be turned into the Government Treasury. It is quite probable that still greater security against control by money centers may be worked into the plan.

Certain it is, however, that the objections which were made in the past history of this country to a central bank as furnishing a monopoly of financial power to private individuals, would not apply to an association whose ownership and control is so widely distributed and is divided between all the banks of the country, State and National, on the one hand, and the Chief Executive through three department heads and his Comptroller of the Currency, on the other. The ancient hostility to a national bank, with its branches, in which is concentrated the privilege of doing a banking business and carrying on the financial transactions of the Government, has prevented the establishment of such a bank since it was abolished in the Jackson Administration. Our present national banking law has obviated objections growing out of the same cause by providing a free banking system in which any set of stockholders can establish a national bank if they comply with the conditions of law. It seems to me that the National Reserve Association meets the same objection in a similar way; that is, by giving to each bank, State and National, in accordance with its size, a certain share in the stock of the reserve association, nontransferable and only to be held by the bank while it performs its functions as a partner in the reserve association.

The report of the commission recommends provisions for the imposition of a graduated tax on the expanded currency of such a character as to furnish a motive for reducing the issue of notes whenever their presence in the money market is not required by the exigencies of trade. In other words, the whole system has been worked out with the greatest care. Theoretically it presents a plan that ought to command support. Practically it may require modification in various of its provisions in order to make the security against abuses by combinations among the banks impossible. But in the face of the crying necessity that there is for improvement in our present system, I urgently invite the attention of Congress to the proposed plan and the report of the commission, with the hope that an earnest consideration may suggest amendments and changes within the general plan which will lead to its adoption for the benefit of the country. There is no class in the community more interested in a safe and sane banking and currency system, one which will prevent panics and automatically furnish in each trade center the currency needed in the carrying on of the business at that center, than the wage earner. There is no class in the community whose experience better qualifies them to make suggestions as to the sufficiency of a currency and banking system than the bankers and business men. Ought we, therefore, to ignore their recommendations and reject their financial judgment as to the proper method of reforming our

financial system merely because of the suspicion which exists against them in the minds of many of our fellow citizens? Is it not the duty of Congress to take up the plan suggested, examine it from all standpoints, give impartial consideration to the testimony of those whose experience ought to fit them to give the best advice on the subject, and then to adopt some plan which will secure the benefits desired?

A banking and currency system seems far away from the wage earner and the farmer, but the fact is that they are vitally interested in a safe system of currency which shall graduate its volume to the amount needed and which shall prevent times of artificial stringency that frighten capital, stop employment, prevent the meeting of the pay roll, destroy local markets, and produce penury and want.

THE TARIFF.

I have regarded it as my duty in former messages to the Congress to urge the revision of the tariff upon principles of protection. It was my judgment that the customs duties ought to be revised downward, but that the reduction ought not to be below a rate which would represent the difference in the cost of production between the article in question at home and abroad, and for this and other reasons I vetoed several bills which were presented to me in the last session of this Congress. Now that a new Congress has been elected on a platform of a tariff for revenue only rather than a protective tariff, and is to revise the tariff on that basis, it is needless for me to occupy the time of this Congress with arguments or recommendations in favor of a protective tariff.

Before passing from the tariff law, however, known as the Payne tariff law of August 5, 1909, I desire to call attention to section 38 of that act, assessing a special excise tax on corporations. It contains a provision requiring the levy of an additional 50 per cent to the annual tax in cases of neglect to verify the prescribed return or to file it before the time required by law. This additional charge of 50 per cent operates in some cases as a harsh penalty for what may have been a mere inadvertence or unintentional oversight, and the law should be so amended as to mitigate the severity of the charge in such instances. Provision should also be made for the refund of additional taxes heretofore collected because of such infractions in those cases where the penalty imposed has been so disproportionate to the offense as equitably to demand relief.

BUDGET.

The estimates for the next fiscal year have been assembled by the Secretary of the Treasury and by him transmitted to Congress. I purpose at a later day to submit to Congress a form of budget prepared for me and recommended by the President's Commission on Economy and Efficiency, with a view of suggesting the useful and informing character of a properly framed budget.

WAR DEPARTMENT.

The War Department combines within its jurisdiction functions which in other countries usually occupy three departments. It not only has the management of the Army and the coast defenses, but its jurisdiction extends to the government of the Philippines and of Porto Rico and the control of the receivership of the customs revenues of the Dominican Republic; it also includes the recommendation of all plans for the improvement of harbors and waterways and their execution when adopted; and, by virtue of an Executive order, the supervision of the construction of the Panama Canal.

ARMY REORGANIZATION.

Our small Army now consists of 83,809 men, excluding the 5,000 Philippine Scouts. Leaving out of consideration the Coast Artillery force, whose position is fixed in our various seacoast defenses, and the present garrisons of our various insular possessions, we have to-day within the continental United States a mobile Army of only about 35,000 men. This little force must be still further drawn upon to supply the new garrisons for the great naval base which is being established at Pearl Harbor, in the Hawaiian Islands, and to protect the locks now rapidly approaching completion at Panama. The forces remaining in the United States are now scattered in nearly 50 posts, situated for a variety of historical reasons in 24 States. These posts contain only fractions of regiments, averaging less than 700 men each. In time of peace it has been our historical policy to administer these units separately by a geographical organization. In other words, our Army in time of peace has never been a united organization but merely scattered groups of companies, battalions, and regiments, and the first task in time of war has been to create out of these scattered units an Army fit for effective teamwork and cooperation.

To the task of meeting these patent defects, the War Department has been addressing itself during the past year. For

many years we had no officer or division whose business it was to study these problems and plan remedies for these defects. With the establishment of the General Staff nine years ago a body was created for this purpose. It has, necessarily, required time to overcome, even in its own personnel, the habits of mind engendered by a century of lack of method, but of late years its work has become systematic and effective, and it has recently been addressing itself vigorously to these problems.

A comprehensive plan of Army reorganization was prepared by the War College Division of the General Staff. This plan was thoroughly discussed last summer at a series of open conferences held by the Secretary of War and attended by representatives from all branches of the Army and from Congress. In printed form it has been distributed to Members of Congress and throughout the Army and the National Guard, and widely through institutions of learning and elsewhere in the United States. In it, for the first time, we have a tentative chart for future progress.

Under the influence of this study definite and effective steps have been taken toward Army reorganization so far as such reorganization lies within the Executive power. Hitherto there has been no difference of policy in the treatment of the organization of our foreign garrisons from those of troops within the United States. The difference of situation is vital, and the foreign garrison should be prepared to defend itself at an instant's notice against a foe who may command the sea. Unlike the troops in the United States, it can not count upon reinforcements or recruitment. It is an outpost, upon which will fall the brunt of the first attack in case of war. The historical policy of the United States of carrying its regiments during time of peace at half strength has no application to our foreign garrisons. During the past year this defect has been remedied as to the Philippines garrison. The former garrison of 12 reduced regiments has been replaced by a garrison of 6 regiments at full strength, giving fully the same number of riflemen at an estimated economy in cost of maintenance of over \$1,000,000 per year. This garrison is to be permanent. Its regimental units, instead of being transferred periodically back and forth from the United States, will remain in the islands. The officers and men composing these units will, however, serve a regular tropical detail as usual, thus involving no greater hardship upon the personnel and greatly increasing the effectiveness of the garrison. A similar policy is proposed for the Hawaiian and Panama garrisons as fast as the barracks for them are completed. I strongly urge upon Congress that the necessary appropriations for this purpose should be promptly made. It is, in my opinion, of first importance that these national outposts, upon which a successful home defense will, primarily, depend, should be finished and placed in effective condition at the earliest possible day.

THE HOME ARMY.

Simultaneously with the foregoing steps the War Department has been proceeding with the reorganization of the Army at home. The formerly disassociated units are being united into a tactical organization of three divisions, each consisting of two or three brigades of Infantry and, so far as practicable, a proper proportion of divisional Cavalry and Artillery. Of course the extent to which this reform can be carried by the Executive is practically limited to a paper organization. The scattered units can be brought under a proper organization, but they will remain physically scattered until Congress supplies the necessary funds for grouping them in more concentrated posts. Until that is done the present difficulty of drilling our scattered groups together, and thus training them for the proper team play, can not be removed. But we shall, at least, have an Army which will know its own organization and will be inspected by its proper commanders, and to which, as a unit, emergency orders can be issued in time of war or other emergency. Moreover, the organization, which in many respects is necessarily a skeleton, will furnish a guide for future development. The separate regiments and companies will know the brigades and divisions to which they belong. They will be maneuvered together whenever maneuvers are established by Congress, and the gaps in their organization will show the pattern into which can be filled new troops as the Nation grows and a larger Army is provided.

REGULAR ARMY RESERVE.

One of the most important reforms accomplished during the past year has been the legislation enacted in the Army appropriation bill of last summer, providing for a Regular Army reserve. Hitherto our national policy has assumed that at the outbreak of war our regiments would be immediately raised to full strength. But our laws have provided no means by which this could be accomplished, or by which the losses of the regiments when once sent to the front could be repaired.

In this respect we have neglected the lessons learned by other nations. The new law provides that the soldier, after serving four years with colors, shall pass into a reserve for three years. At his option he may go into the reserve at the end of three years, remaining there for four years. While in the reserve he can be called to active duty only in case of war or other national emergency, and when so called and only in such case will receive a stated amount of pay for all of the period in which he has been a member of the reserve. The legislation is imperfect, in my opinion, in certain particulars, but it is a most important step in the right direction, and I earnestly hope that it will be carefully studied and perfected by Congress.

THE NATIONAL GUARD.

Under existing law the National Guard constitutes, after the Regular Army, the first line of national defense. Its organization, discipline, training, and equipment, under recent legislation, have been assimilated, as far as possible, to those of the Regular Army, and its practical efficiency, under the effect of this training, has very greatly increased. Our citizen soldiers under present conditions have reached a stage of development beyond which they can not reasonably be asked to go without further direct assistance in the form of pay from the Federal Government. On the other hand, such pay from the National Treasury would not be justified unless it produced a proper equivalent in additional efficiency on the part of the National Guard. The Organized Militia to-day can not be ordered outside of the limits of the United States, and thus can not lawfully be used for general military purposes. The officers and men are ambitious and eager to make themselves thus available and to become an efficient national reserve of citizen soldiery. They are the only force of trained men, other than the Regular Army, upon which we can rely. The so-called militia pay bill, in the form agreed on between the authorities of the War Department and the representatives of the National Guard, in my opinion adequately meets these conditions and offers a proper return for the pay which it is proposed to give to the National Guard. I believe that its enactment into law would be a very long step toward providing this Nation with a first line of citizen soldiery, upon which its main reliance must depend in case of any national emergency. Plans for the organization of the National Guard into tactical divisions, on the same lines as those adopted for the Regular Army, are being formulated by the War College Division of the General Staff.

NATIONAL VOLUNTEERS.

The National Guard consists of only about 110,000 men. In any serious war in the past it has always been necessary, and in such a war in the future it doubtless will be necessary, for the Nation to depend, in addition to the Regular Army and the National Guard, upon a large force of volunteers. There is at present no adequate provision of law for the raising of such a force. There is now pending in Congress, however, a bill which makes such provision, and which I believe is admirably adapted to meet the exigencies which would be presented in case of war. The passage of the bill would not entail a dollar's expense upon the Government at this time or in the future until war comes. But if war comes the methods therein directed are in accordance with the best military judgment as to what they ought to be, and the act would prevent the necessity for a discussion of any legislation and the delays incident to its consideration and adoption. I earnestly urge its passage.

CONSOLIDATION OF THE SUPPLY CORPS.

The Army appropriation act of 1912 also carried legislation for the consolidation of the Quartermaster's Department, the Subsistence Department, and the Pay Corps into a single supply department, to be known as the Quartermaster's Corps. It also provided for the organization of a special force of enlisted men, to be known as the Service Corps, gradually to replace many of the civilian employees engaged in the manual labor necessary in every army. I believe that both of these enactments will improve the administration of our military establishment. The consolidation of the supply corps has already been effected, and the organization of the Service Corps is being put into effect.

All of the foregoing reforms are in the direction of economy and efficiency. Except for the slight increase necessary to garrison our outposts in Hawaii and Panama, they do not call for a larger Army, but they do tend to produce a much more efficient one. The only substantial new appropriations required are those which, as I have pointed out, are necessary to complete the fortifications and barracks at our naval bases and outposts beyond the sea.

PORTO RICO.

Porto Rico continues to show notable progress, both commercially and in the spread of education. Its external commerce

has increased 17 per cent over the preceding year, bringing the total value up to \$92,631,886, or more than five times the value of the commerce of the island in 1901. During the year 160,657 pupils were enrolled in the public schools, as against 145,525 for the preceding year, and as compared with 26,000 for the first year of American administration. Special efforts are under way for the promotion of vocational and industrial training, the need of which is particularly pressing in the island. When the bubonic plague broke out last June, the quick and efficient response of the people of Porto Rico to the demands of modern sanitation was strikingly shown by the thorough campaign which was instituted against the plague and the hearty public opinion which supported the Government's efforts to check its progress and to prevent its recurrence.

The failure thus far to grant American citizenship continues to be the only ground of dissatisfaction. The bill conferring such citizenship has passed the House of Representatives and is now awaiting the action of the Senate. I am heartily in favor of the passage of this bill. I believe that the demand for citizenship is just, and that it is amply earned by sustained loyalty on the part of the inhabitants of the island. But it should be remembered that the demand must be, and in the minds of most Porto Ricans is, entirely disassociated from any thought of statehood. I believe that no substantial approved public opinion in the United States or in Porto Rico contemplates statehood for the island as the ultimate form of relation between us. I believe that the aim to be striven for is the fullest possible allowance of legal and fiscal self-government, with American citizenship as the bond between us; in other words, a relation analogous to the present relation between Great Britain and such self-governing colonies as Canada and Australia. This would conduce to the fullest and most self-sustaining development of Porto Rico, while at the same time it would grant her the economic and political benefits of being under the American flag.

PHILIPPINES.

A bill is pending in Congress which revolutionizes the carefully worked out scheme of government under which the Philippine Islands are now governed and which proposes to render them virtually autonomous at once and absolutely independent in eight years. Such a proposal can only be founded on the assumption that we have now discharged our trusteeship to the Filipino people and our responsibility for them to the world, and that they are now prepared for self-government as well as national sovereignty. A thorough and unbiased knowledge of the facts clearly shows that these assumptions are absolutely without justification. As to this, I believe that there is no substantial difference of opinion among any of those who have had the responsibility of facing Philippine problems in the administration of the islands, and I believe that no one to whom the future of this people is a responsible concern can countenance a policy fraught with the direst consequences to those on whose behalf it is ostensibly urged.

In the Philippine Islands we have embarked upon an experiment unprecedented in dealing with dependent peoples. We are developing there conditions exclusively for their own welfare. We found an archipelago containing 24 tribes and races, speaking a great variety of languages, and with a population over 80 per cent of which could neither read nor write. Through the unifying forces of a common education, of commercial and economic development, and of gradual participation in local self-government we are endeavoring to evolve a homogeneous people fit to determine, when the time arrives, their own destiny. We are seeking to arouse a national spirit and not, as under the older colonial theory, to suppress such a spirit. The character of the work we have been doing is keenly recognized in the Orient, and our success thus far followed with not a little envy by those who, initiating the same policy, find themselves hampered by conditions grown up in earlier days and under different theories of administration. But our work is far from done. Our duty to the Filipinos is far from discharged. Over half a million Filipino students are now in the Philippine schools helping to mold the men of the future into a homogeneous people, but there still remain more than a million Filipino children of school age yet to be reached. Freed from American control the integrating forces of a common education and a common language will cease and the educational system now well started will slip back into inefficiency and disorder.

An enormous increase in the commercial development of the islands has been made since they were virtually granted full access to our markets three years ago, with every prospect of increasing development and diversified industries. Freed from American control, such development is bound to decline. Every observer speaks of the great progress in public works for the

benefit of the Filipinos, of harbor improvements, of roads and railways, of irrigation and artesian wells, public buildings, and better means of communication. But large parts of the islands are still unreached, still even unexplored, roads and railways are needed in many parts, irrigation systems are still to be installed, and wells to be driven. Whole villages and towns are still without means of communication other than almost impassable roads and trails. Even the great progress in sanitation, which has successfully suppressed smallpox, the bubonic plague, and Asiatic cholera, has found the cause of and a cure for beriberi, has segregated the lepers, has helped to make Manila the most healthful city in the Orient, and to free life throughout the whole archipelago from its former dread diseases, is nevertheless incomplete in many essentials of permanence in sanitary policy. Even more remains to be accomplished. If freed from American control, sanitary progress is bound to be arrested and all that has been achieved likely to be lost.

Concurrent with the economic, social, and industrial development of the islands has been the development of the political capacity of the people. By their progressive participation in government the Filipinos are being steadily and hopefully trained for self-government. Under Spanish control they shared in no way in the government. Under American control they have shared largely and increasingly. Within the last dozen years they have gradually been given complete autonomy in the municipalities, the right to elect two-thirds of the provincial governing boards and the lower house of the insular legislature. They have four native members out of nine members of the commission, or upper house. The chief justice and two justices of the supreme court, about one-half of the higher judicial positions, and all of the justices of the peace are natives. In the classified civil service the proportion of Filipinos increased from 51 per cent in 1904 to 67 per cent in 1911. Thus to-day all the municipal employees, over 90 per cent of the provincial employees, and 60 per cent of the officials and employees of the central government are Filipinos. The ideal which has been kept in mind in our political guidance of the islands has been real popular self-government and not mere paper independence. I am happy to say that the Filipinos have done well enough in the places they have filled and in the discharge of the political power with which they have been intrusted to warrant the belief that they can be educated and trained to complete self-government. But the present satisfactory results are due to constant support and supervision at every step by Americans.

If the task we have undertaken is higher than that assumed by other nations, its accomplishment must demand even more patience. We must not forget that we found the Filipinos wholly untrained in government. Up to our advent all other experience sought to repress rather than encourage political power. It takes a long time and much experience to ingrain political habits of steadiness and efficiency. Popular self-government ultimately must rest upon common habits of thought and upon a reasonably developed public opinion. No such foundations for self-government, let alone independence, are now present in the Philippine Islands. Disregarding even their racial heterogeneity and the lack of ability to think as a nation, it is sufficient to point out that under liberal franchise privileges only about 3 per cent of the Filipinos vote and only 5 per cent of the people are said to read the public press. To confer independence upon the Filipinos now is, therefore, to subject the great mass of their people to the dominance of an oligarchical and, probably, exploiting minority. Such a course will be as cruel to those people as it would be shameful to us.

Our true course is to pursue steadily and courageously the path we have thus far followed; to guide the Filipinos into self-sustaining pursuits; to continue the cultivation of sound political habits through education and political practice; to encourage the diversification of industries, and to realize the advantages of their industrial education by conservatively approved cooperative methods, at once checking the dangers of concentrated wealth and building up a sturdy, independent citizenship. We should do all this with a disinterested endeavor to secure for the Filipinos economic independence and to fit them for complete self-government, with the power to decide eventually, according to their own largest good, whether such self-government shall be accompanied by independence. A present declaration even of future independence would retard progress by the dissension and disorder it would arouse. On our part it would be a disingenuous attempt, under the guise of conferring a benefit on them, to relieve ourselves from the heavy and difficult burden which thus far we have been bravely and consistently sustaining. It would be a dis-

guised policy of scuttle. It would make the helpless Filipino the football of oriental politics, under the protection of a guaranty of their independence, which we would be powerless to enforce.

REGULATION OF WATER POWER.

There are pending before Congress a large number of bills proposing to grant privileges of erecting dams for the purpose of creating water power in our navigable rivers. The pendency of these bills has brought out an important defect in the existing general dam act. That act does not, in my opinion, grant sufficient power to the Federal Government in dealing with the construction of such dams to exact protective conditions in the interest of navigation. It does not permit the Federal Government, as a condition of its permit, to require that a part of the value thus created shall be applied to the further general improvement and protection of the stream. I believe this to be one of the most important matters of internal improvement now confronting the Government. Most of the navigable rivers of this country are comparatively long and shallow. In order that they may be made fully useful for navigation there has come into vogue a method of improvement known as canalization, or the slack-water method, which consists in building a series of dams and locks, each of which will create a long pool of deep navigable water. At each of these dams there is usually created also water power of commercial value. If the water power thus created can be made available for the further improvement of navigation in the stream, it is manifest that the improvement will be much more quickly effected on the one hand and, on the other, that the burden on the general taxpayers of the country will be very much reduced. Private interests seeking permits to build water-power dams in navigable streams usually urge that they thus improve navigation, and that if they do not impair navigation they should be allowed to take for themselves the entire profits of the water-power development. Whatever they may do by way of relieving the Government of the expense of improving navigation should be given due consideration, but it must be apparent that there may be a profit beyond a reasonably liberal return upon the private investment which is a potential asset of the Government in carrying out a comprehensive policy of waterway development. It is no objection to the retention and use of such an asset by the Government that a comprehensive waterway policy will include the protection and development of the other public uses of water, which can not and should not be ignored in making and executing plans for the protection and development of navigation. It is also equally clear that inasmuch as the water power thus created is or may be an incident of a general scheme of waterway improvement within the constitutional jurisdiction of the Federal Government, the regulation of such water power lies also within that jurisdiction. In my opinion, constructive statesmanship requires that legislation should be enacted which will permit the development of navigation in these great rivers to go hand in hand with the utilization of this by-product of water power, created in the course of the same improvement, and that the general dam act should be so amended as to make this possible. I deem it highly important that the Nation should adopt a consistent and harmonious treatment of these water-power projects, which will preserve for this purpose their value to the Government, whose right it is to grant the permit. Any other policy is equivalent to throwing away a most valuable national asset.

THE PANAMA CANAL.

During the past year the work of construction upon the canal has progressed most satisfactorily. About 87 per cent of the excavation work has been completed, and more than 93 per cent of the concrete for all the locks is in place. In view of the great interest which has been manifested as to some slides in the Culebra Cut, I am glad to say that the report of Col. Goethals should allay any apprehension on this point. It is gratifying to note that none of the slides which occurred during this year would have interfered with the passage of the ships had the canal, in fact, been in operation, and when the slope pressures will have been finally adjusted and the growth of vegetation will minimize erosion in the banks of the cut, the slide problem will be practically solved and an ample stability assured for the Culebra Cut.

Although the official date of the opening has been set for January 1, 1915, the canal will, in fact, from present indications, be opened for shipping during the latter half of 1913. No fixed date can as yet be set, but shipping interests will be advised as soon as assurances can be given that vessels can pass through without unnecessary delay.

Recognizing the administrative problem in the management of the canal, Congress in the act of August 24, 1912, has made

admirable provisions for executive responsibility in the control of the canal and the government of the Canal Zone. The problem of most efficient organization is receiving careful consideration, so that a scheme of organization and control best adapted to the conditions of the canal may be formulated and put in operation as expeditiously as possible. Acting under the authority conferred on me by Congress, I have, by Executive proclamation, promulgated the following schedule of tolls for ships passing through the canal, based upon the thorough report of Emory R. Johnson, special commissioner on traffic and tolls:

1. On merchant vessels carrying passengers or cargo, \$1.20 per net vessel ton—each 100 cubic feet—of actual earning capacity.
2. On vessels in ballast without passengers or cargo, 40 per cent less than the rate of tolls for vessels with passengers or cargo.
3. Upon naval vessels, other than transports, colliers, hospital ships, and supply ships, 50 cents per displacement ton.
4. Upon Army and Navy transports, colliers, hospital ships, and supply ships, \$1.20 per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

Rules for the determination of the tonnage upon which toll charges are based are now in course of preparation and will be promulgated in due season.

PANAMA CANAL TREATY.

The proclamation which I have issued in respect to the Panama Canal tolls is in accord with the Panama Canal act passed by this Congress August 24, 1912. We have been advised that the British Government has prepared a protest against the act and its enforcement in so far as it relieves from the payment of tolls American ships engaged in the American coastwise trade on the ground that it violates British rights under the Hay-Pauncefote treaty concerning the Panama Canal. When the protest is presented, it will be promptly considered and an effort made to reach a satisfactory adjustment of any differences there may be between the two Governments.

WORKMEN'S COMPENSATION ACT.

The promulgation of an efficient workmen's compensation act, adapted to the particular conditions of the zone, is awaiting adequate appropriation by Congress for the payment of claims arising thereunder. I urge that speedy provision be made in order that we may install upon the zone a system of settling claims for injuries in best accord with modern humane, social, and industrial theories.

PROMOTION FOR COL. GOETHALS.

As the completion of the canal grows nearer, and as the wonderful executive work of Col. Goethals becomes more conspicuous in the eyes of the country and of the world, it seems to me wise and proper to make provision by law for such reward to him as may be commensurate with the service that he has rendered to his country. I suggest that this reward take the form of an appointment of Col. Goethals as a major general in the Army of the United States, and that the law authorizing such appointment be accompanied with a provision permitting his designation as Chief of Engineers upon the retirement of the present incumbent of that office.

NAVY DEPARTMENT.

The Navy of the United States is in a greater state of efficiency and is more powerful than it has ever been before, but in the emulation which exists between different countries in respect to the increase of naval and military armaments this condition is not a permanent one. In view of the many improvements and increases by foreign Governments the slightest halt on our part in respect to new construction throws us back and reduces us from a naval power of the first rank and places us among the nations of the second rank. In the past 15 years the Navy has expanded rapidly and yet far less rapidly than our country. From now on reduced expenditures in the Navy means reduced military strength. The world's history has shown the importance of sea power both for adequate defense and for the support of important and definite policies.

I had the pleasure of attending this autumn a mobilization of the Atlantic Fleet, and was glad to observe and note the preparedness of the fleet for instant action. The review brought before the President and the Secretary of the Navy a greater and more powerful collection of vessels than had ever been gathered in American waters. The condition of the fleet and of the officers and enlisted men and of the equipment of the vessels entitled those in authority to the greatest credit.

I again commend to Congress the giving of legislative sanction to the appointment of the naval aids to the Secretary of the Navy. These aids and the council of aids appointed by the Secretary of the Navy to assist him in the conduct of his department have proven to be of the highest utility. They have furnished an executive committee of the most skilled naval

experts, who have coordinated the action of the various bureaus in the Navy, and by their advice have enabled the Secretary to give an administration at the same time economical and most efficient. Never before has the United States had a Navy that compared in efficiency with its present one, but never before have the requirements with respect to naval warfare been higher and more exacting than now. A year ago Congress refused to appropriate for more than one battleship. In this I think a great mistake of policy was made, and I urgently recommend that this Congress make up for the mistake of the last session by appropriations authorizing the construction of three battleships, in addition to destroyers, fuel ships, and the other auxiliary vessels as shown in the building program of the general board. We are confronted by a condition in respect to the navies of the world which requires us, if we would maintain our Navy as an insurance of peace, to augment our naval force by at least two battleships a year and by battle cruisers, gunboats, torpedo destroyers, and submarine boats in a proper proportion. We have no desire for war. We would go as far as any nation in the world to avoid war, but we are a world power. Our population, our wealth, our definite policies, our responsibilities in the Pacific and the Atlantic, our defense of the Panama Canal, together with our enormous world trade and our missionary outposts on the frontiers of civilization, require us to recognize our position as one of the foremost in the family of nations, and to clothe ourselves with sufficient naval power to give force to our reasonable demands, and to give weight to our influence in those directions of progress that a powerful Christian nation should advocate.

I observe that the Secretary of the Navy devotes some space to a change in the disciplinary system in vogue in that branch of the service. I think there is nothing quite so unsatisfactory to either the Army or the Navy as the severe punishments necessarily inflicted by court-martial for desertions and purely military offenses, and I am glad to hear that the British have solved this important and difficult matter in a satisfactory way. I commend to the consideration of Congress the details of the new disciplinary system, and recommend that laws be passed putting the same into force both in the Army and the Navy.

I invite the attention of Congress to that part of the report of the Secretary of the Navy in which he recommends the formation of a naval reserve by the organization of the ex-sailors of the Navy.

I repeat my recommendation made last year that proper provision should be made for the rank of the commander in chief of the squadrons and fleets of the Navy. The inconvenience attending the necessary precedence that most foreign admirals have over our own whenever they meet in official functions ought to be avoided. It impairs the prestige of our Navy and is a defect that can be very easily removed.

DEPARTMENT OF JUSTICE.

This department has been very active in the enforcement of the law. It has been better organized and with a larger force than ever before in the history of the Government. The prosecutions which have been successfully concluded and which are now pending testify to the effectiveness of the departmental work.

The prosecution of trusts under the Sherman antitrust law has gone on without restraint or diminution, and decrees similar to those entered in the Standard Oil and the Tobacco cases have been entered in other suits, like the suits against the Powder Trust and the Bathing Trust. I am very strongly convinced that a steady, consistent course in this regard, with a continuing of Supreme Court decisions upon new phases of the trust question not already finally decided is going to offer a solution of this much-discussed and troublesome issue in a quiet, calm, and judicial way, without any radical legislation changing the governmental policy in regard to combinations now denounced by the Sherman antitrust law. I have already recommended as an aid in this matter legislation which would declare unlawful certain well-known phases of unfair competition in interstate trade, and I have also advocated voluntary national incorporation for the larger industrial enterprises, with provision for a closer supervision by the Bureau of Corporations, or a board appointed for the purpose, so as to make more certain compliance with the antitrust law on the one hand and to give greater security to the stockholders against possible prosecutions on the other. I believe, however, that the orderly course of litigation in the courts and the regular prosecution of trusts charged with the violation of the antitrust law is producing among business men a clearer and clearer perception of the line of distinction between business that is to be encouraged and business that is to be condemned, and

that in this quiet way the question of trusts can be settled and competition retained as an economic force to secure reasonableness in prices and freedom and independence in trade.

REFORM OF COURT PROCEDURE.

I am glad to bring to the attention of Congress the fact that the Supreme Court has radically altered the equity rules governing the procedure on the equity side of all Federal courts, and though, as these changes have not been yet put in practice so as to enable us to state from actual results what the reform will accomplish, they are of such a character that we can reasonably prophesy that they will greatly reduce the time and cost of litigation in such courts. The court has adopted many of the shorter methods of the present English procedure, and while it may take a little while for the profession to accustom itself to these methods, it is certain greatly to facilitate litigation. The action of the Supreme Court has been so drastic and so full of appreciation of the necessity for a great reform in court procedure that I have no hesitation in following up this action with a recommendation which I foreshadowed in my message of three years ago, that the sections of the statute governing the procedure in the Federal courts on the common-law side should be so amended as to give to the Supreme Court the same right to make rules of procedure in common law as they have, since the beginning of the court, exercised in equity. I do not doubt that a full consideration of the subject will enable the court while giving effect to the substantial differences in right and remedy between the system of common law and the system of equity so to unite the two procedures into the form of one civil action and to shorten the procedure in such civil action as to furnish a model to all the State courts exercising concurrent jurisdiction with the Federal courts of first instance.

Under the statute now in force the common-law procedure in each Federal court is made to conform to the procedure in the State in which the court is held. In these days, when we should be making progress in court procedure, such a conformity statute makes the Federal method too dependent upon the action of State legislatures. I can but think it a great opportunity for Congress to intrust to the highest tribunal in this country, evidently imbued with a strong spirit in favor of a reform of procedure, the power to frame a model code of procedure, which, while preserving all that is valuable and necessary of the rights and remedies at common law and in equity, shall lessen the burden of the poor litigant to a minimum in the expedition and cheapness with which his cause can be fought or defended through Federal courts to final judgment.

WORKMAN'S COMPENSATION ACT.

The workman's compensation act reported by the special commission appointed by Congress and the Executive, which passed the Senate and is now pending in the House, the passage of which I have in previous messages urged upon Congress, I venture again to call to its attention. The opposition to it which developed in the Senate, but which was overcome by a majority in that body, seemed to me to grow out rather of a misapprehension of its effect than of opposition to its principle. I say again that I think no act can have a better effect directly upon the relations between the employer and employee than this act applying to railroads and common carriers of an interstate character, and I am sure that the passage of the act would greatly relieve the courts of the heaviest burden of litigation that they have, and would enable them to dispatch other business with a speed never before attained in courts of justice in this country.

WM. H. TAFT.

THE WHITE HOUSE, December 6, 1912.

Mr. TOWNSEND. I ask that the omnibus claims bill go over until to-morrow.

The PRESIDENT pro tempore. It will go over necessarily and be then called up as it was to-day.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

Mr. SMOOT. I suggest the absence of a quorum, Mr. President.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Davis	Myers	Smith, Ariz.
Bacon	Dixon	Nelson	Smith, Ga.
Bailey	du Pont	Oliver	Smith, Md.
Bankhead	Fletcher	Overman	Smith, S. C.
Borah	Gallinger	Owen	Smoot
Brandegee	Gardner	Page	Stephenson
Bristow	Johnson, Me.	Penrose	Stone
Brown	Johnson, Ala.	Perkins	Sutherland
Bryan	Kenyon	Perky	Swanson
Burnham	La Follette	Pomerene	Tillman
Clapp	Lodge	Richardson	Townsend
Clark, Wyo.	McLean	Root	Wetmore
Clarke, Ark.	Martine, N. J.	Shively	Works
Culberson	Massey	Simmons	

Mr. CULBERSON. I will state for the day that the Senator from Oregon [Mr. CHAMBERLAIN] is necessarily absent on business of the Senate.

Mr. PAGE. I desire to announce that the continued illness of my colleague [Mr. DILLINGHAM] prevents his attendance on the Senate.

Mr. TOWNSEND. I wish to state that the senior Senator from Washington [Mr. JONES] is unavoidably absent on business of the Senate.

Mr. JOHNSON of Maine. I wish to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on important business of the Senate. I make that announcement for the day.

Mr. MARTINE of New Jersey. I am requested to announce that my colleague, the senior Senator from New Jersey [Mr. BRIGGS], is detained by serious illness.

Mr. KENYON. I desire to announce that my colleague [Mr. CUMMINS] was called out of the city by serious illness in his family.

The PRESIDENT pro tempore. On the call of the roll of the Senate 55 Senators have answered to their names. A quorum of the Senate is present. The Sergeant at Arms will make proclamation of the sitting of the Court of Impeachment.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. Senators present who have not heretofore been sworn will present themselves at the desk.

Mr. OWEN advanced to the Vice President's desk, and the oath was administered to him by the President pro tempore.

The PRESIDENT pro tempore. The journal of the last sitting of the court will be read.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will be confirmed. The managers will proceed.

TESTIMONY OF WILLIAM A. MAY—CONTINUED.

Q. (By Mr. Manager STERLING.) Mr. May, you stated yesterday that Robertson & Law had operated the Katydid colliery.—A. Yes, sir.

Q. And they paid to the Hillside Coal & Iron Co. a royalty on the coal that came from that colliery.—A. They did.

Q. And the Katydid culm dump was created by refuse coming from the Katydid colliery.—A. It was.

Q. You had written arrangements with Robertson & Law as to the royalty which your company was to get from them on your coal.—A. Yes, sir.

Q. Was there any other person or corporation interested in the coal that came from the Katydid colliery?—A. The Hillside only had an undivided half—

Q. That is not my question. Was there any other person besides the Hillside Coal & Iron Co. who had any interest in the coal coming from that colliery and who received a royalty from Robertson & Law?—A. Yes, sir.

Q. Who was it?—A. But they received the royalty through the Hillside.

Q. That is, you paid it to them?—A. Yes, sir; we paid it to them.

Q. Who was that party?—A. The E. & G. Brooks Land Co., the James Everhart estate, and the heirs of John T. Everhart.

Q. And out of the 37½ cents per ton which the Hillside Coal & Iron Co. got from Robertson & Law you paid these three other parties?—A. We did.

Q. And you had been doing that for years?—A. Yes, sir.

Q. You knew before Judge Archbald or Mr. Williams approached you with reference to the purchase of this culm dump that these parties claimed and had some interest in that colliery?—A. They had an interest in the coal prepared at the colliery.

Q. Does the Hillside Coal & Iron Co. make its claim or did it make its claim to an interest in the Katydid culm dump by

reason of the fact that it owns an interest in the Katydid colliery?—A. They did not.

Q. On what did they base their claim to an interest in the Katydid culm dump?—A. The interest that they had in the culm dump was a royalty interest. That is, they would get the royalty from the coal that was shipped; that is, won from the culm bank.

Q. Why were they entitled to any royalty on the coal that was shipped from the culm dump?—A. Because it was understood by the Hillside that Robertson & Law had the ownership of the culm bank subject to the royalty to be paid the Hillside.

Q. So your title to the culm dump was based on the fact that you had title to a part of the coal in the colliery, was it not?—A. No, sir.

Q. The fact that this culm dump came from the colliery was what gave you or the Hillside Co. the title to a part of the dump?—A. No, sir. Our title rested on the agreement made with them. It was not necessarily on the undivided interest that we had or that Hillside had in the property. It rested upon the agreement between Hillside and Robertson and Law.

Q. Did you buy from Robertson & Law an interest in the culm dump?—A. We did not.

Q. You simply owned it because you had an interest in that mine. Is not that true?—A. We owned it because we had an interest in the royalty to accrue from the coal.

Q. And these other persons whom you have named, with whom you shared the royalty that you got, based their claim to royalty on the very same ground?—A. They based their claim to royalty—that is, whatever royalty they were to get out of coal from the culm—on the arrangement they had with us.

Q. What arrangements did they have with you?—A. The arrangement was we were to pay them 20 cents a ton for their proportion of the coal won from this particular tract.

Q. And that was due to the fact that they owned some of the land on which the coal was situated?—A. That is correct.

Q. You and the Hillside Coal & Iron Co. were entirely familiar for years with the fact that these three parties claimed an interest in the colliery and in the culm dump?—A. They claimed an interest in the colliery. I did not know they claimed an interest in the culm bank.

Q. Would not their interest in the culm bank follow, just as the interest of the Hillside Coal & Iron Co. in the culm bank followed, having an interest in the mine?—A. Only to the extent of the royalty they would receive from us.

Q. Certainly; and that is all they got?—A. That is all they got.

Q. That is all they claimed?—A. I do not know about that.

Q. They never made any claim on you for any other, did they?—A. They served notice on me that they had a right to that culm bank.

Q. When was that?—A. That was the letters—I do not know that they are in evidence before you, but they were in evidence before the committee.

Q. You knew that; you knew that they were just as much entitled to their proportionate share in the culm bank as the Hillside Coal & Iron Co., did you not, because they owned a part of the mine, a part of the land on which the coal was situated?—A. They were entitled to their proportionate share of the royalty as fixed in the agreement. They did not own the culm bank.

Mr. Manager STERLING. I ask that this be marked as an exhibit.

The paper referred to was marked "Exhibit 17."

Q. (By Mr. Manager STERLING.) Exhibit No. 17 is a letter by you to Robertson & Law in which you state the royalty that you believe you are entitled to?—A. This is a copy of a letter that I sent to them dated March 11, 1901. It is not the original letter.

Q. And that is what constitutes the contract as to the amount of royalty your company was to receive?—A. That is correct.

Q. And it had been in force from that time until Robertson & Law ceased to operate?—A. It is in force up to the present time. It is in force now.

Q. There was a time when your company even disputed title in Robertson and Law to any part of this colliery?—A. To the colliery?

Q. To the culm dump?—A. There was a question, I can not say that it was as much as a dispute, but a question arose as to their ownership, because of an apparent abandonment, or a seeming abandonment, rather.

Q. Well, you protested against them having any rights there, did you not?—A. No, sir; I do not believe I did.

Q. I ask you if on June 23, 1911, John W. Robertson wrote this letter to you, marked "Exhibit 18," in which he says:

There are at present responsible parties negotiating with me for the purchase of the culm, and I feel that I am not only legally the owner but also morally am entitled to it, for it has certainly cost me considerable money to mine and pile it.

I hope you will give this your careful consideration and that your company will recognize my rights in the culm. Before selling to others I would prefer to sell to your company. Should your company desire to purchase, I shall be pleased to hear from you promptly. If, as I understand it, your company claim that I no longer own the culm, subject only to royalty, will you kindly advise me when my ownership ceased?

That is a letter you got from Robertson, is it not?—A. That is correct.

Q. And at that time you had notified Robertson that your company was claiming title to the culm?—A. No, sir.

Q. Why did Robertson?—A. (Interrupting.) There was a question as to their title. I never questioned it.

Q. Why did John W. Robertson write you that letter in that way?—A. Because there were questions as to whether they had abandoned the property or not.

Q. Who did question it, if you did not?—A. Among various officials connected with the organization.

Q. With your organization?—A. Our organization.

Q. Then there did come from the Hillside Coal & Iron Co., either through you or some other official, a claim that Robertson & Law had not any interest in the culm bank?—A. There was a doubt as to their ownership.

Q. And that was about the time you were having your negotiations with Judge Archbald and Mr. Williams?—A. No.

Q. Regarding the sale of it?—A. Yes. I beg your pardon; yes; that is right.

Mr. Manager STERLING. What is the date of the letter from which I just read?

Mr. WORTHINGTON. June 23, 1911.

Mr. Manager STERLING. That is what I thought.

The WITNESS. Yes, sir; June 23, 1911.

Mr. Manager STERLING. I offer Exhibits Nos. 17 and 18 in evidence. Does Mr. Worthington care to see them?

Mr. WORTHINGTON. I take it that they are in evidence; they have been read. I have no objection to them.

Mr. Manager STERLING. I read only an extract from one of them. I did that to identify the letter. It is really the only material part of the letter.

Mr. WORTHINGTON. We have no objection.

The PRESIDENT pro tempore. The papers will be read.

The Secretary read as follows:

[U. S. S. Exhibit 17.]

(Pennsylvania Coal Co., Hillside Coal & Iron Co.)

OFFICE OF GENERAL SUPERINTENDENT,

Scranton, Pa., March 11, 1901.

Messrs. ROBERTSON & LAW, Moosic, Pa.

GENTLEMEN: As I understand, the arrangement entered into with you was that you were to be paid on the 60 per cent basis from November 1, 1900, until further notice. The royalty on coal mined from the lands of this company from that date will be 37½ cents per ton for sizes above pea coal, 18 cents per ton for pea coal, 9 cents per ton for buckwheat coal No. 1, and 6 cents per ton for smaller sizes, a ton in each case to constitute 2,240 pounds.

Upon the receipt of a reply from you that the above is your understanding I shall at once request that vouchers be made in your favor for the balance due you since November 1, 1900.

Yours, very truly,

W. A. MAY, Superintendent.

[U. S. S. Exhibit 18.]

SCRANTON, PA., June 23, 1911.

Mr. W. A. MAY,

General Manager, Hillside Coal & Iron Co., Dunmore, Pa.

DEAR SIR: Relative to the culm mined through the Katydid Colliery and now in bank at Moosic, beg to say you will remember at the time Mr. Law and myself built the breaker and commenced mining we were only mining a small amount of coal, which at the time it was supposed the company would never be able to mine. Under our agreement we sold all the coal as well as the culm produced at our breaker and washery to your company.

We went on in good faith and operated the breaker and washery, mining the coal and washing the culm from the bank continuously until the Delaware & Hudson Co. broke through the barrier pillar, which occurred a few months before the breaker and washery were totally destroyed by fire. The effect of the breaking through of the barrier pillar was to immediately diminish our water supply, and to such an extent that in extremely dry weather we were obliged to shut down our breaker and washery. This, however, occurred only in times of drought, so that continuously until the breaker and washers burned, with the exception noted, we were selling to the company the culm, and the company never questioned our right to it.

The breaker and washery were destroyed by fire in 1908. This fire was caused by a fire in the culm bank belonging to your company, which was dumped long after our breaker and washery were located and erected. At the time the breaker was destroyed there was very little coal left, and the operations of your company had by this time extended so that your company could advantageously mine the balance of the coal, and for that reason the breaker was never rebuilt.

Shortly after the fire we endeavored to sell the culm to the Dupont Powder Co. We took the matter up with you at that time, and there was no question raised as to our owning an interest in the bank. You will remember at that time at my request your engineers went

to the culm bank and measured it in order that the company might arrive at the value of its interest in the same. The report of the engineers was, I think, about 80,000 tons. Before anything definite had been done, however, the Dupont Powder Co. decided not to take the culm, and the negotiations ceased.

Since then I have been trying to dispose of the culm pile, and have talked frequently with you about the same. No question has ever been raised as to my interest in it. I have never in any way intimated to anyone that I had abandoned my title to it, but have always, on the contrary, asserted whenever possible my rights in it. I have had a number of offers from time to time for my interest in the culm, but these offers came from persons who I knew would be antagonistic to your company, and for that reason have declined to dispose of it to such persons. There are at present responsible parties negotiating with me for the purchase of the culm, and I feel that I am not only legally the owner, but also morally am entitled to it, for it has certainly cost me considerable money to mine and pile it.

I hope you will give this your careful consideration, and that your company will recognize my rights in the culm. Before selling to others I would prefer to sell to your company. Should your company desire to purchase I shall be pleased to hear from you promptly. If, as I understand it, your company claim that I no longer own the culm, subject only to royalty, will you kindly advise me when my ownership ceased?

Yours, truly,

JNO. M. ROBERTSON.

Q. (By Mr. Manager STERLING.) Mr. May, how many culm banks does the Hillside Coal & Iron Co. own?—A. Between 8 and 10 banks.

Q. Have you ever owned any more than that?—A. No, sir. The Hillside has never owned any more than that.

Q. How many fills do you own?—A. We own no fills.

Q. You have never sold any culm banks?—A. Yes; we have.

Q. When?—A. We did not sell an entire bank. We sold our interest in what is known as the Florence bank.

Q. When was that?—A. In 1910.

Q. Have you never sold any others than that?—A. The Hillside has never sold any others.

Q. Why did you sell the one you just mentioned?—A. There was some question. If I may be allowed to make an extended statement, we owned lot 39. The Everhart heirs owned lots 38 and 40. The coal was leased to the Florence Coal Co. The Florence Coal Co. was subsequently bought out by the Hillside. A question then arose as to some minimum royalties which had not been paid, and rather than to have litigation about it Hillside surrendered whatever right it had to lots 38 and 40, retaining only its right in the culm coming from lot 39 in the bank. Believing that we would have difficulty in cleaning it up we disposed of our interest in that bank.

Q. It was under those peculiar circumstances, then, that you sold that one particular dump?—A. Yes, sir.

Q. Had you ever priced the Katydid culm dump prior to the time you priced it to Archbald and Williams?—A. Tentatively; Mr. Robertson came to me, and whether I named \$2,000 or whether he asked whether we would take \$2,000, I do not remember.

Q. Is it not a fact that he came to you and asked you if you would take \$2,000, and you refused?—A. I refused?

Q. You refused to take \$2,000 for it?—A. I do not remember that.

Mr. Manager STERLING. Let me refresh your recollection.

Mr. WORTHINGTON. On what page?

Mr. Manager STERLING. On page 776 of the testimony before the committee, by Mr. RUCKER:

Mr. RUCKER. While it is true that you had given some consideration to the sale of this culm pile before your trip to New York, at the time you conferred with your superior officer, Mr. Richardson, you had never fixed a price on it until after that, had you?

Mr. MAY. No; I had not.

A. I think that refers to the price to Mr. Williams, if I am not very much mistaken. I thought you referred to the price of the Florence bank.

Q. (By Mr. Manager STERLING.) No; I am talking about the Katydid culm bank. You had never fixed a price on it to anybody prior to the time you priced it to Judge Archbald and Mr. Williams at \$4,500, had you?—A. I had not fixed a price to Mr. Williams until after my visit in New York.

Q. Had you at any time fixed a price to any other person on your interest in this culm bank prior to the time you fixed a price to Williams and Archbald?—A. Mr. Robertson came to see—

Q. You can answer that "yes" or "no."—A. No; I can not; because it will not be a straight answer.

Q. Is the testimony which you gave before the committee and which I read correct or not?—A. That testimony is correct as referring to the transaction between Williams and the Hillside Co. There was no price fixed before my visit to New York to Mr. Williams. That is what I intended to say.

Q. Was there a price fixed by you or your company to any other person on the Katydid prior to that time; and if so, to whom was it fixed?—A. Only as Mr. Robertson came to me wanting to sell to the Du Pont Powder Co., and I think he named the price, \$2,000, and wanted to know whether I would

take it, and I said I would recommend it. But as far as the price to Mr. Williams is concerned, there was no price fixed until after my visit to New York.

Q. Yes; I understand that. You did not accept Robertson's offer of \$2,000 for your interest in the culm bank?—A. It did not go that far. It did not reach that stage.

Q. You never reached the stage where you accepted his offer?—A. It never was consummated, because the Du Ponts did not take the bank.

Q. Do you know how much Robertson was to get from the Du Pont Co. for his interest?—A. I think it was \$10,000.

Q. For the entire culm dump?—A. The entire culm bank.

Q. For which Williams and Archbald some time after that were to pay only \$8,000?—A. That is correct.

Q. How long before your negotiations with Williams and Judge Archbald was it that this proposition came from Robertson with reference to selling it to the Du Pont Powder Co.?—A. I think that was in 1909.

Q. Two years?—A. Yes, sir.

Q. Is it not true, Mr. May, that the value of culm dumps has gone up very rapidly in the last four or five years?—A. The price has gone up, generally speaking.

Q. And that is due to the fact that the price of anthracite coal has gone up, and also to the fact that machinery has been developed by which coal can be separated from the dirt in the culm banks?—A. Yes, sir.

Q. As I understand it, you went to New York on the 25th of August, 1911?—A. I was in New York on the 25th day of August. I think I went there the day before. I was in New York on the 25th of August.

Q. You saw Mr. Richardson on the 25th?—A. Yes, sir.

Q. And returned to Scranton on the 26th?—A. On the 26th.

Q. And the 29th, as I remember it, was the date when you sent word by Judge Archbald to Williams that you would let them have the dump?—A. That is correct.

Mr. BORAH. Mr. President, I wish to ask a question.

The PRESIDENT pro tempore. The Senator from Idaho asks that the following question be propounded to the witness. The Secretary read as follows:

The Du Pont Powder Co. refused to take the Katydid at \$10,000. Was it because the price was too high?

The WITNESS. I do not know.

Q. (By Mr. Manager STERLING.) Mr. May, is it not true that the Du Pont Powder Co. was willing to pay \$10,000 for the culm and your company and Mr. Robertson refused to take it?—A. No, sir.

Q. Is not that the fact?—A. No, sir.

Q. And is not that why it fell through?—A. No, sir.

Q. You returned on the 26th, you say, and on the 29th you saw Judge Archbald?—A. Yes, sir.

Q. What, if anything, had you done between those two dates toward investigating the title to the Katydid culm dump or toward removing any cloud or correcting the title?—A. I had done nothing.

Q. Nothing at all?—A. No, sir.

Q. Was there any further reason why that negotiation with the Du Pont Powder Co. failed? The Du Pont Powder Co. afterwards decided to get their power from other sources and concluded they did not want the coal?—A. I do not know that.

Q. You do not know about that?—A. No.

Q. Did you not testify before the committee, Mr. May, that the reason that negotiation fell through was the fact that the Du Pont Powder Co. decided not to buy this coal, but decided to put up a plant elsewhere and get their power in another way? Did you not swear that before the Judiciary Committee?—A. I do not recall that I did.

Q. Do you know that is one of the reasons why it fell through?—A. No; I do not.

Mr. WORTHINGTON. The Du Pont Powder Co. state that.

Mr. Manager STERLING. And we admit it is one of the reasons. We are not saying it is the only reason. We do not want to be bound by that as the only reason.

Mr. WORTHINGTON. I do not admit that there is any other reason.

Q. (By Mr. Manager STERLING.) Mr. May, after you had returned the contract to Bradley at the time you saw him in the Laurel Station did you send any telegrams to Mr. Richardson about the matter or write him any letters?—A. No, sir; I did not.

Q. It was on the 13th of April, as I remember it, when you returned the contract?—A. The 12th of April.

Q. Was it not the 13th?—A. The 12th, as I recall it.

Q. What was the date when the newspapers published the fact that this investigation had been made or was being made by the Department of Justice?—A. On the 21st.

Q. It appeared in the Scranton papers on that date, did it?—A. I do not remember whether it appeared in the Scranton papers on that date. It appeared in the North American on that date.

Q. Do you remember when it did appear in the Scranton papers?—A. No; I do not.

Q. The North American is published at what place?—A. At Philadelphia.

Q. It circulates at Scranton?—A. Yes, sir.

Q. And immediately on the receipt of those papers, the Scranton papers and the North American, you clipped the articles out referring to the matter and sent them to Mr. Richardson, did you not?—A. I did.

Q. Why did you send those articles to Mr. Richardson?—A. Because the papers said that they had an interview with me, and it referred to the company business, and I wanted him to know it.

Q. Then did he wire you to come to New York at once?—A. I think he did. I do not remember the date of the telegram, but I think he did.

Q. You went immediately, did you not?—A. I did.

Q. Was it Richardson or Underwood who wired you?—A. Mr. Richardson wired first, I think, and then Mr. Underwood subsequently.

Q. Mr. Underwood was president of the company?—A. He was.

Q. The president of the Hillside Co.?—A. The president of the Hillside.

Q. And also the Erie?—A. Yes, sir.

Q. And you got this telegram—

Mr. WORTHINGTON. The page, please.

Mr. Manager STERLING. On page 879.

APRIL 26, 1912.

Capt. W. A. MAY:

Please call on me at your earliest convenience.

F. D. UNDERWOOD.

A. That is correct.

Q. (By Mr. Manager STERLING.) You got that on the 26th?—A. I did.

Q. And you replied on the same date?

F. D. UNDERWOOD, New York:

Your message. Will be at your office to-morrow morning.

W. A. MAY.

A. That is correct.

Q. And you went?—A. Yes.

Q. And you discussed with Mr. Underwood this whole situation, the entire transaction that was being negotiated between Judge Archbald and Williams on the one hand and yourself on the other, did you not?—A. I made a statement to him of the matter brought out by the newspaper article. I want to correct what I said about Mr. Richardson telegraphing me. I think that is incorrect. I think Mr. Underwood was the one who sent the message.

Q. Mr. May, we have not got the originals of those telegrams, but we have a copy of them, as you read them in your evidence before the committee. As I remember it, you asked the privilege of keeping them in your file. Have you them here now?—A. I beg your pardon, I left my file with the chairman of the committee. My file is in his possession.

Mr. WORTHINGTON. We have no objection to reading those from the record without producing the originals.

Mr. Manager STERLING. If there is no objection, then we will let those stand. We have not been able to find the original and we offer that part of the record, the two telegrams I have just read, as a part of the evidence.

Mr. WORTHINGTON. Just the telegrams?

Mr. Manager STERLING. The two telegrams. [To the witness.] Did you send some of the clippings to Underwood, too?

A. No, sir; I did not.

Q. Where is Mr. Underwood's office?—A. At 50 Church Street, New York.

Q. Where is it with reference to Brownell's office and Richardson's office?—A. On the same floor.

Mr. Manager STERLING. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. May, with reference to this Katydid dump transaction, did you have Williams come to you with more than one letter from Judge Archbald, or was the letter of March 31 the only one from Judge Archbald that Williams brought to you?—A. That was the only one.

Q. (Presenting a letter.) Is this that letter of March 31, 1911?—A. (After examining the letter.) That is the letter.

Q. There are various memoranda on that letter that you referred to in your examination. I wish you would take each one of them up in its order and state what it means and give

the history of the transaction so far as is indicated on that paper.—A. Upon the receipt of the letter I wrote upon it—it must have been shortly after because I say—"have asked Beyea to have an estimate made of the quantity of the material in the bank."

Q. Beyea was your engineer or your subordinate?—A. He was the land agent.

Q. The land agent?—A. In whose charge, or rather under whose supervision, the measurements of banks had been made.

Q. I understand it to be claimed here that when you got that letter of March 31 you simply refused to do anything and told Mr. Williams you would not sell it?—A. That is incorrect.

Q. It is incorrect?—A. It is incorrect.

Q. On the contrary, you say you referred it to your land agent for investigation as to quantities and values.—A. I referred it to the land agent to have the cubical contents ascertained.

Q. Very well.—A. The other is a memorandum made by my chief clerk to the general coal inspector.

Q. Read that, please.—A. (Reading:) "Please note Mr. May wants you to make your usual report on this. Please confer with Mr. Beyea as to time estimate is to be made."

Then, apparently, a conference was held and it was decided to go on the ground Monday, April 3, 1911.

Q. Who was to go on the ground, and on what ground?—A. On lot 46, where the culm bank is, in order to get the cubical contents and to get the sizes of the coal to be found therein, and Mr. Merriman and Mr. Johnson went on the ground.

Q. Who are they?—A. Mr. Merriman was the surveyor for the land department and Mr. Johnson is the general coal inspector.

Q. Of the Hillside Coal & Iron Co.?—A. Of the Hillside Coal & Iron Co.

Q. So, instead of refusing to pay any attention to this request and refusing to sell, you directed an investigation to be made to see what your interest was worth?—A. I did.

Q. Had you had that inquiry made before?—A. From whom?

Q. I mean, had you had this investigation made at any time before that?—A. There was an investigation made at the time the Du Ponts were talking about buying, but I had entirely forgotten that. I think the investigation was made at Mr. Robertson's suggestion by one of our engineers who did Mr. Robertson's work.

Q. Very well. Now, Capt. May, am I to infer from what you did that at that time you contemplated you might recommend the sale of the interest of your company in this Katydid dump when you had this inquiry made to see what was there?—A. When an inquiry is made we do not usually turn it down. We investigate, and that occurs quite often. I presume in this instance I followed that procedure. There was not a price; there was nothing fixed at that time. It was simply preliminary.

Q. The inquiry in that letter is as to whether you would sell; and if so, at what price, is it not?—A. Yes, sir.

Q. Up to the time you had that conversation with Mr. Richardson, in June following, what was your state of mind or willingness to recommend the sale of your interest in this Katydid dump?—A. It was conflicting.

Q. You had not determined that you would recommend it or that you would not?—A. No, sir.

Q. What can you tell us, if anything, about any concealment of the fact that Judge Archbald was connected with this Katydid transaction as far as your part of it was concerned?—A. I never thought of it.

Q. What was done with that letter which came from him dated March 31 and on which there was this indorsement?—A. It took the usual course of business.

Q. Where would that take it—into whose hands?—A. The chief clerk opens the mail. He places the mail upon my desk, and I look at it and decide what to do with it. Then the succeeding morning all the correspondence of the past day is put again upon my desk and I check it off.

Q. Where did this particular letter go, can you tell us, after you had determined that you would have an investigation made?—A. It was filed in the office file.

Q. With the first memorandum on it, a direction to your chief clerk?—A. No; the first memorandum is—the way it reads I must have spoken to Mr. Beyea himself.

Q. Did he see the letter and know Judge Archbald had written it?—A. I do not know. I do not remember.

Q. Was there any attempt to conceal from everybody in your office that that letter was there and that Judge Archbald had written it?—A. There was no attempt to conceal it.

Q. Did Judge Archbald or anybody else ever suggest to you that his connection with the matter was to be covered up?—A. He never suggested anything of the kind.

Q. Did anybody?—A. No, sir.

Q. When you finally did determine to recommend the sale of the interest of your company for \$4,500, who fixed that figure. Whose judgment decided that?—A. My judgment decided that.

Q. And you are an official of the Hillside Coal & Iron Co.?—A. Yes, sir.

Q. You are not connected with the main company which owns the Hillside?—A. The Erie?

Q. Yes.—A. No, sir; I am not.

Q. Had your company had, and did you have any anticipation that it ever would have, any litigation in the Commerce Court?—A. I had no thought of it.

Q. Has your company, the Hillside Coal & Iron Co., ever had so far?—A. No, sir; our company never has had.

Q. And it was you who fixed the price, I understand, upon which you would recommend the sale?—A. Yes, sir.

Q. Now, in reference to what you said that Judge Archbald's position might have influenced you, I think some passages were read from your testimony before the Judiciary Committee, and I should like to read a little more from that document. I read from page 756, the last question on that page, by Mr. Worthington:

Let me ask you if you ever had any suggestion, until this inquiry began, from any source, that Judge Archbald's connection with this matter had any relation whatever to his position as a Federal judge?

Mr. MAY. No suggestion of that character.

Is that true?—A. That is true.

Q. From pages 747 and 748 I want to read quite a passage when you were examined by Mr. Dodds, a member of the Judiciary Committee:

Mr. DODDS. I would like to ask a question: You say that the fact that Judge Archbald was a judge may have influenced you in the making of this sale for the consideration stated?

Mr. MAY. Yes; it may have influenced me.

Mr. DODDS. In what way could it have influenced you, if it did influence you?

Mr. MAY. His prominence, just as the prominence of any man in public life, you know, would cause us to listen favorably to their suggestions.

Mr. DODDS. Did you take into consideration the fact that, being a judge, he might possibly, because of your making this sale, make some decision favoring yourself or one of your companies in which you were interested?

Mr. MAY. No, sir.

Mr. DODDS. Did that influence you at all in your making the sale to him?

Mr. MAY. No, sir.

Mr. DODDS. That was not considered at all by you?

Mr. MAY. No, sir.

Mr. DODDS. How long have you known Judge Archbald?

Mr. MAY. I have known him about 38 years.

Mr. DODDS. What kind of a man has he been, so far as your experience would indicate?

Mr. MAY. His reputation with me was that he was as straight as he could be.

Mr. DODDS. Did you think so, and did you have that in mind when you were making this sale, or thinking about making it? I mean, did you consider that you were dealing with a good man?

Mr. MAY. I did.

Mr. DODDS. And you did not have in mind at all the fact that by reason of making the sale to him, or making the sale as he advised—to some one else—you would place him in a position where he would be likely to make some decision that he might be called upon to make as a judge that would favor yourself or one of these companies?

Mr. MAY. No. Now, let me say this: I did not believe, knowing Judge Archbald, that the transaction, if carried through, would influence him a particle in his decisions.

Mr. DODDS. You did not have that phase of the matter in mind at all?

Mr. MAY. No.

Mr. WEBB. You very rarely have suits for your coal company in the Federal court, do you?

Mr. MAY. We never have. Well, we have suits in the circuit court there—that is, before Judge Witmer.

Mr. WEBB. Did you ever have one before Judge Archbald?

Mr. MAY. No; I do not believe we have.

Mr. WEBB. And at this time you did not know the Erie Railroad Co. had any suits pending before him in the Commerce Court?

Mr. MAY. No; I did not know.

Now, you gave that testimony before the Judiciary Committee, Capt. May?—A. That is correct.

Q. Is it true from beginning to end?—A. That is true.

Q. And when you fixed this price of \$4,500 in your mind you were acting for the company and had no litigation in the Commerce Court, and never expected to have any, and you did not know the Erie Railroad Co. had any?—A. That is correct.

Mr. TOWNSEND. Mr. President, I should like to ask a question.

The PRESIDENT pro tempore. The Senator from Michigan proposes a question to the witness, which will be read by the Secretary.

The Secretary read as follows:

Prior to fixing the price of \$4,500 on the culm dump, did you talk with any officer or other person connected with the Erie Railroad Co. as to the price?

The WITNESS. No, sir; I did not.

Q. (By Mr. WORTHINGTON.) With reference to the matter of Robertson's interest or claim in this dump in addition to what has been brought out by Mr. STERLING, do you know whether or not, as a matter of fact, after Robertson & Law had stopped their operations because of the burning down of their plant, they went there from time to time and took away the coal from that dump, thereby continuing to assert their title?—A. I did not know it at the time. I have heard it since.

Q. You did not know it while it was going on?—A. No, sir.

Q. You have said, as I understood you, that one reason why you agreed to recommend this particular sale of the interest of your company was the condition of the title?—A. It was not only the condition of the title, but it was our relations with the other interests, if I may be allowed to explain.

Q. You said yesterday, when asked why you should object—why after selling your interest in this coal dump—you should care who made claims against it if you were only selling your interest. You said, if I remember, that you had to look out for other interests. That is what you were going on to tell us?—A. That is what I want to tell you now.

Q. Explain that, please.—A. We have on this same lot, or did have at that time, a culm bank made from the consolidated breaker. It is about 200 yards from this Katydid culm bank, upon the same lot. We had relations with the undivided other owners and it could affect not only our interest or our property rights in the culm bank which we owned ourselves, but it might involve the breaker building. Therefore it was to our interest to keep upon as good terms as we could with the other owners.

Q. Who were the other owners—the Consolidated Breaker property?—A. The Consolidated Breaker property is on this lot 46.

Q. And the Everhart heirs had the same interest that they had in the Katydid culm property?—A. The Consolidated Breaker property is upon the very lot, upon the very piece of ground that the Katydid bank is on; and that lot is owned by the interests named herebefore.

Q. Capt. May, I understand it to be claimed, or at least intimated here, that the letters which you received on the 11th or 12th of April, 1912, notifying you of the claim of these other persons were fictitious; that they were made for the purpose of giving a possible reason for your recalling the contract with Bradley, when the real reason was that this investigation was coming on?—A. That is, that I had those made or that I inspired those?

Q. Well, you have heard the examination?—A. That is a lie. The PRESIDENT pro tempore. The witness will confine himself to proper language.

The WITNESS. I beg pardon; I am sorry; I forgot myself. I did not mean to do that.

Q. (By Mr. WORTHINGTON.) I want to show you those letters, and put them in evidence here, and find out who the people are who wrote them. Here [exhibiting] is one dated April 11, 1912. Will you look at that and tell me if that was one of the letters in question?—A. (After examining.) That is one of the letters in question.

Q. What day did you receive that?—A. April 12, 1912.

Q. Before or after you saw Bradley at the station and recalled the contract?—A. This was before I recalled the contract.

Q. On the same morning?—A. Yes.

Q. I will show you another letter of the same date, April 11, 1912. As to the letter I have just shown you, by whom is that signed?—A. That is signed by Charles P. Holden.

Q. I will show you another letter of the same date signed "James E. Heckel, administrator." When did you receive that?—A. I received that April 12, 1912.

Q. Before or after you met Bradley at the station and recalled the contract with him?—A. Before.

Q. I show you another letter of the same date signed "Walter S. Bevan, attorney for Charles P. Holden." When did you receive that?—A. I received that April 12, 1912.

Q. Before or after you saw Bradley at the station and recalled the contract?—A. Before.

Q. I have here one dated April 13, purporting to be signed by R. M. Saltonstall, per O. When did you receive that?—A. I received that on April 16, 1912.

Q. Finally, I show you one dated April 19, 1912, purporting to be signed by William Rice Taylor. When did you receive that?—A. That I received April 20.

Q. Do you know the handwriting of these letters—the signatures?—A. I do not know. I would not want to say that I know them.

Q. Did you see these gentlemen afterwards and have conversation, and did they recognize that they had sent these letters,

or did you hear from them?—A. No, sir. I have not seen them since.

Q. At all events, these are letters you received upon which you recalled the contract—I mean those dated April 11?—A. Yes, sir.

Mr. WORTHINGTON. I offer these letters in evidence.

Mr. Manager STERLING. Mr. President, before that is done, I should like to ask the Reporter to read Judge Worthington's question when he began his statement with reference to these letters, or when he began the examination on this subject.

The PRESIDENT pro tempore. The Reporter will read the question desired.

The Reporter read as follows:

Q. Capt. May, I understand it to be claimed, or at least intimated here, that the letters which you received on the 11th or 12th of April, 1912, notifying you of the claim of these other persons were fictitious; that they were made for the purpose of giving a possible reason for your recalling the contract with Bradley, when the real reason was that this investigation was coming on?

Mr. Manager STERLING. I think, Mr. President, that we are entitled to know on what Judge Worthington bases that statement. There was nothing said on our side intimating that we thought they were fictitious. We have never had any idea but that the letters were actually written. I suggested in the examination of this witness yesterday that they might have been written upon the suggestion of somebody connected with the Hillside Coal & Iron Co., but we never did suggest that they were not written by these parties; and they might have been written by these parties in good faith. There is nothing in the record to the contrary.

Mr. WORTHINGTON. Perhaps the word "fictitious" was not a happy one, Mr. President, and I will withdraw that; but I certainly did understand the claim to be that in some way these letters were concocted and sent for the purpose of giving an ostensible reason for withdrawing the Bradley contract, when the real reason was that this investigation was coming on. Let me read from page 225 of yesterday's proceedings:

Q. Did you get information from anybody or did somebody tell you that a tip had gone out from the office of the Hillside Coal & Iron Co. that they wanted an excuse for withdrawing this contract and for that reason had these letters sent in there?—A. No, sir.

Now, if that is not what it means, I do not appreciate the use of the English language.

Mr. Manager STERLING. I submit that that is not what it means, and I do not think counsel is fair with the question when he undertakes to put that interpretation on it. That question followed the testimony proving that all these letters came in there on the very same day and just at that peculiar time when they sought to withdraw this contract which they had submitted to Bradley. I say it is a fair inference that these people from some source of other got wind of the fact that this deal might be closed up, and that it was at the suggestion of the Hillside Coal & Iron Co. that they began then to make their claims so they could have an excuse for withdrawing that contract from Bradley. We never did say the letters were fictitious or anything of that kind.

Mr. WORTHINGTON. I propose to offer these letters in evidence, and then I propose to bring the persons here who wrote them, to see whether the scheme which existed in the imagination of my learned friend was in existence or whether they were written in good faith.

The PRESIDENT pro tempore. Does the Chair understand the manager to object to the introduction of the letters?

Mr. Manager STERLING. We do not object to the letters.

The PRESIDENT pro tempore. What was the objection?

Mr. WORTHINGTON. The objection was to my language about them.

Mr. Manager STERLING. My objection was to the language of Mr. Worthington, in which he said we had intimated that the letters were fictitious; that is, that we had intimated that the Hillside Coal & Iron Co. had manufactured the letters, which is not the case at all.

The PRESIDENT pro tempore. Without objection, the Secretary will read the letters.

The Secretary read the letters, marked "Exhibits C. D. E. F, and G," respectively, as follows:

[U. S. S. Exhibit C.]

THE BELLEVUE-STRATFORD,
Philadelphia, April 19, 1912.

Capt. W. A. MAY,
Vice President and General Manager Hillside Coal & Iron Co.

DEAR SIR: On behalf of my wife, Elizabeth M. Everhart Taylor, I beg to notify you that she claims an interest in the culm piles on lot No. 46, certified Pittston Township, and that she will be obliged if you will advise her of the status of this property, in which your company has a joint interest.

Very respectfully,

WILLIAM RICE TAYLOR.

[U. S. S. Exhibit D.]

(Grand Union Hotel, opposite Grand Central Station; Ford & Shaw, proprietors.)
NEW YORK, April 11, 1912.

W. A. MAY, Esq.,
Vice President and General Manager Hillside Coal & Iron Co.,
Scranton, Pa.

DEAR SIR: Please take notice that I claim an interest in the culm dumps on lot 46, certified Pittston Township, Luzerne County, Pa., by virtue of an option given by the E. & G. Brooke Land Co., also on behalf of my wife, Mary E. Holden.

Yours, respectfully,
CHAS. P. HOLDEN,
625 Commonwealth Avenue, Boston, Mass.

[U. S. S. Exhibit E.]

(The Everhart Brass Works, manufacturers of brass goods for water, gas, and steam. Established 1857.)
SCRANTON, PA., April 11, 1912.

W. A. MAY,
Vice President and General Manager Hillside Coal & Iron Co.,
Scranton, Pa.

MY DEAR SIR: In reference to the five twenty-fourths interest in the coal in lot 46 and the culm derived therefrom, I beg to notify you, as administrator for the estate of James Everhart, deceased, that we claim ownership of the above amount and not to dispose of same without our consent.

Yours, very truly,
JAS. E. HECKEL, Administrator.

[U. S. S. Exhibit F.]

WALTER S. BEVAN, ATTORNEY AND COUNSELOR,
Scranton, Pa., April 11, 1912.

Mr. W. A. MAY,
Smith and Mill Streets, Dunmore, Pa.

DEAR SIR: Having learned that you are about to sell and dispose of the interests you represent in lot No. 46, certified Pittston Township, you are hereby notified that Mr. Charles P. Holden, who owns certain interests in said lot, opposes said sale and hereby protests against the same, and he further notifies you that the sale will in nowise change or affect his interests in said lot, and that the said sale will be made without his approval or consent. You will therefore govern yourself accordingly.

Very truly, yours,
WALTER S. BEVAN,
Attorney for Charles P. Holden.

[U. S. S. Exhibit G.]

(Gaston, Snow & Saltonstall: William A. Gaston, Frederic E. Snow, Richard M. Saltonstall, Thomas Hunt, Lawrence A. Ford, Henry Endicott, Jr., John C. Rice, Arthur A. Ballantine, and Warren Motley.)
SHAWMUT BANK BUILDING,
Boston, April 13, 1912.

Capt. W. A. MAY,
Vice President Hillside Coal & Iron Co., Scranton, Pa.

DEAR SIR: I have been in conference with Mr. Charles P. Holden in connection with mining operations as conducted by your company upon lot 46, Pittston Township, Luzerne County, Pa., and as one of the guardians of the minor children of John F. Everhart, deceased, I should be glad to be advised under what right your company is mining coal from this lot 46.

Mr. Holden informs me that a sale is about to be made of one of the culm piles on this land, and I hereby notify you that Nina D. E. Jones and R. M. Saltonstall, the undersigned, guardians as aforesaid of said minor children of said John F. Everhart, deceased, claim an interest in said culm pile and give you notice of that fact at this time so as to protect our rights in the premises. We should be glad to hear from you in reply to this letter at your early convenience.

Very truly, yours,
R. M. SALTONSTALL,
Per O.

Q. (By Mr. WORTHINGTON.) Who is Mr. William Rice Taylor, who signed the last letter which was written?—A. I do not know him. I think he is the husband of one of the daughters of John F. Everhart.

Q. You do not know anything of your own knowledge about his standing or business?—A. No; I do not.

Q. Do you know Charles P. Holden, who signs one of these letters of April 11?—A. I do.

Q. Who is he?—A. He is married to a daughter of John F. Everhart, deceased.

Q. Where does he live?—A. In Boston.

Q. Do you know anything about his business or standing?—A. I do not.

Q. Who is James E. Heckel, if you know?—A. He lives in Scranton, and is in business in Scranton.

Q. In what business?—A. He is in the brass business.

Q. Do you know him?—A. I will not say positively that I know him.

Q. Do you know who Walter S. Bevan is?—A. I know him by reputation.

Q. Where does he live?—A. In Scranton.

Q. And what is his business?—A. A lawyer.

Q. And, finally, do you know R. M. Saltonstall?—A. No, sir; I am not acquainted with him.

Q. As a matter of fact—I do not want to repeat, but I want to see if I understand clearly—you yourself had no knowledge of this coming investigation until the matter appeared in the Philadelphia North American of the 21st of April?—A. No, sir; I did not.

Q. Had you any suspicion that any such thing was pending?—A. No suspicion whatever.

Q. What, so far as you know, had Judge Archbald to do with the making of this Bradley contract or the recalling of it?—A. He had nothing whatever to do with it, so far as I know.

Q. In that connection, I should like to ask you what foundation there is, so far as you know, for this statement which I read from the proceedings in this case on page 59:

That—

Referring to the contract—

That was sent to Bradley on one day, and the next day Archbald sees Bradley at the depot and asks him to call that off, that some complications have arisen and they had better stop the negotiations, and also writes him a letter to the same effect, in which he tells him the transaction will be withdrawn on account of certain complications. No one knows what complications were referred to, excepting there had appeared in the newspapers in the meantime this scandal about Judge Archbald's relations with persons who had litigation in his court.

Mr. Manager CLAYTON. Mr. President, before the witness answers the question I desire to know from what counsel he is reading.

Mr. WORTHINGTON. I am reading from the proceedings in the House the statement made by Mr. STERLING, now one of the managers of the House, as to the facts in this case.

Mr. Manager CLAYTON. Does the court think that is proper?

The PRESIDENT pro tempore. What is the question that counsel for the respondent is asking in connection with it?

Mr. WORTHINGTON. I am asking, so far as the witness knows, whether or not there is any foundation whatever for that statement which was made to the House as one of the reasons for impeaching Judge Archbald.

Mr. Manager STERLING. May I see it, Mr. Worthington?

Mr. WORTHINGTON. Certainly.

Mr. Manager CLAYTON. May I be permitted to say that it is a speech delivered in the House of Representatives by Mr. STERLING. I think to bring it here in this way offends several rules. It offends propriety, Mr. President, as well as the rules of evidence. I need not make any further comment, in view of the intimation of the Chair not to allow the question to be answered.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to be heard?

Mr. WORTHINGTON. I do.

Mr. Manager STERLING. Mr. President, I think in this print of what I had to say in the House the name of Judge Archbald is used instead of "May." I think it is purely a mistake. I do not believe there is any controversy about it at all.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to be heard on the question?

Mr. WORTHINGTON. I do.

The PRESIDENT pro tempore. Counsel will proceed.

Mr. WORTHINGTON. In view of the objection, Mr. President, which I hardly supposed would come from the managers, I will change the phraseology of the question and put it in a different way. I ask you, Capt. May, whether, so far as you know, Judge Archbald met Bradley at the depot and asked him to call the Bradley deal off?

A. I know nothing of that character at all.

Q. (By Mr. WORTHINGTON.) And whether, as a matter of fact, when you called it off anything had appeared in the newspapers about the charges against Judge Archbald?

Mr. Manager CLAYTON. There is no objection to that.

The PRESIDENT pro tempore. What did the manager say?

Mr. Manager CLAYTON. I say we have no objection to that question at all. The Chair apprehended the ground of my objection to the other question.

The PRESIDENT pro tempore. The question as originally propounded and objected to was withdrawn and it is not necessary for the Chair to rule upon it.

Q. (By Mr. WORTHINGTON.) Now, about the sale of the Du Pont Powder Co., Capt. May, you have been asked about your previous testimony on that subject, and I will ask you whether this occurred. I read first from page 760:

Mr. WORTHINGTON. What was the date of the negotiations about a sale to the Du Pont Powder Co.?

Mr. MAY. 1908.

Mr. WORTHINGTON. 1908?

Mr. MAY. Yes, sir.

Mr. WORTHINGTON. And you were willing to sell then, I understand?

Mr. MAY. No; we would consider it.

Mr. WORTHINGTON. You told them you would consider it?

Mr. MAY. Yes.

Mr. WORTHINGTON. Just what you said to Williams when you talked to him?

Mr. MAY. Yes.

Mr. WORTHINGTON. And you were then, in your own mind, ready to recommend a sale in the interest of the Hillside Coal & Iron Co. for \$2,000?

Mr. MAY. Yes, sir. That is, that was only a beginning, you know. Doubtless, Mr. Robertson came to me and wanted to know whether I would recommend the sale of whatever equity we had in it for \$2,000, and I told him that I would recommend it. Now, that is the sum and substance of it.

Is that right?—A. That is correct.

Q. And the same thing on page 750, where you were asked this question by Mr. NORRIS:

But the man Robertson must have known how much it would cost to get your interest before he could make a bona fide offer to anybody else to sell?

Mr. MAY. Yes. Well, he would believe that whatever recommendation I made would go through.

Mr. NORRIS. Certainly; and you undoubtedly told him you would recommend \$2,000?

Mr. MAY. Yes.

Is that right?

Mr. Manager NORRIS. Mr. President, before the witness answers the question I desire to object to this form of interrogation of the witness. As I understand, we would not be allowed to call his attention to the testimony unless we had first asked him about the same matter and he had testified differently. Counsel has been asking questions of this witness, reading evidence that was taken before the Judiciary Committee, without any intimation that there is anything different in his testimony now. He reads a lot of testimony and asks the witness if that was true. It seems to me that that is not a proper examination of the witness, particularly an examination—

The PRESIDENT pro tempore. The Chair was of the opinion that it was done by consent.

Mr. WORTHINGTON. I was going to say that it is my recollection that we had quite a discussion about that matter the other day, when we very earnestly opposed reading from this testimony by the manager who called the witness. Now we are cross-examining, and I submit that if it is competent for the managers who call the witness to ask him whether he had not testified at some other place so and so, and then ask, "Is not that true?" instead of asking him to testify here without reference to what he testified to anywhere else and give his present recollection of it, it certainly is much more competent for us on cross-examination to ask him. As I understood Capt. May to testify here this morning with reference to that sale to the Du Pont Powder Co., or attempted sale or negotiation with that company, he did not say explicitly as to what I have asked him here what he did say before the Judiciary Committee. I therefore submit that on cross-examination we have the right to ask him or any other witness about any matter as to which he has testified here or anything he said anywhere else which would bring out more fully what his recollection is on the subject or what it was at some prior time.

Of course, it is a very vital matter here. The great contention here on the part of the managers has been, as we see by the articles of impeachment and by what they have said here, that the Hillside Coal & Iron Co., which meant, in the first instance at least, this witness, offered to sell their interest in this Katydid dump to Judge Archbald, or to somebody who was associated with him, for \$4,500, and that was a great deal less than that interest was worth. Of course, it is important in that connection to show that in the negotiations with the Du Pont Powder Co. he had offered to sell that same interest for less than that amount. I do not recollect that when Capt. May testified this morning he stated the matter as explicitly as he had stated it twice before the Judiciary Committee. I have already asked him without objection, and he has answered, that on one occasion during his examination before the Judiciary Committee he did say that he had recommended this sale for \$2,000 to the Du Pont Powder Co. I asked him on another occasion during his testimony, but he did not repeat it when the objection was made.

The PRESIDENT pro tempore. Is the counsel through?

Mr. WORTHINGTON. Yes.

The PRESIDENT pro tempore. The previous testimony of this witness can be read to him for two purposes. As the Chair recollects the rule, it can be read for the purpose of contradicting him or for the purpose of refreshing his memory. If counsel examine the witness as to a matter and his testimony is not clear on the subject, the Chair would hold that then, after having attempted to elicit testimony in the usual way without success, he could go further and call attention of the witness to what he had previously testified to by way of refreshing his memory. The Chair thinks that is the correct rule of law.

Mr. WORTHINGTON. That is entirely satisfactory.

The PRESIDENT pro tempore. The Chair would suggest to counsel for the respondent that it is perfectly competent for him to put questions as to the particular matters that he desires to have testimony upon without reading from the questions and answers, but in either case the Chair would rule that counsel

has the right to bring out the testimony if it is either for the purpose of calling attention to the fact that the witness had previously made conflicting statements or for the purpose of refreshing his memory upon some things in regard to which he is not now clear.

Mr. WORTHINGTON. As the witness distinctly answered when I read the first question and answer from the record, I will not press the second one.

Q. (By Mr. WORTHINGTON.) Why was it when you had been willing in 1909—you say it was in that year that the Du Pont Powder Co. transaction occurred—A. 1908 or 1909, I do not remember which.

Q. Why was it that when you were willing to sell the interest of your company then for \$2,000 you asked Judge Archbald or Williams \$4,500? You say prices had gone up.—A. Prices had gone up; we had measured the bank; and we thought the price that I named to Judge Archbald would cover our royalty and any profit that we ought to have.

Q. You were asked, as I recollect, something about how the Du Pont Powder Co. were willing to pay \$10,000 for this whole property in 1908 or 1909, and the other parties were going to get it for \$8,000, and then it was Robertson that came down on his price and you had gone up on yours?—A. Yes, sir.

Q. Do you remember whether or not when Williams first came to you, or when you first talked to him about the price, you fixed any different price than \$4,500?—A. I have a distinct recollection that I first named \$6,000.

Q. And he did not accept that?—A. No, sir.

Q. What would you say now as to that interest after all that has taken place and has led you to investigate this matter?—A. If we were sure of not getting into litigation we would be glad to sell for \$4,500.

Q. Your interest in it?—A. Yes, sir; our interest.

Q. To go back one moment, at the time that you received the letters which were read a few moments ago, when you recalled that contract from Bradley, did you consult anybody in reference to that before you took that action?—A. Before recalling it?

Q. Yes.—A. My recollection is that I discussed it with our attorneys.

Q. Who are the attorneys whom you consulted?—A. Warren, Knapp, and O'Malley.

Q. And they are attorneys in Scranton?—A. In Scranton.

Q. Do you remember—

The WITNESS. Excuse me, as to question before the last one that I answered, would you be kind enough to read that question to me again—the one before the last?

The PRESIDENT pro tempore. The Reporter will read as requested.

The Reporter read as follows:

Q. What would you say now as to that interest after all that has taken place and has led you to investigate this matter?

The WITNESS. Now, I want to add to that: I said that if we were free of litigation, and if we were sure that we would not get into any difficulty with the owners of that property, so far as the consolidated breaker and our own holdings upon that lot are concerned. I want to make sure of that.

Q. (By Mr. WORTHINGTON.) You say if that could be fixed, you would now be willing to sell for \$4,500?—A. Yes, sir.

Q. What value would that Katydid dump be to your company if you had the whole interest—owned it clear and free—and nobody else had an interest of a claim to any part of it?

Mr. Manager STERLING. We object to that as immaterial.

The PRESIDENT pro tempore. What is the question?

The Reporter read the question.

The PRESIDENT pro tempore. The Chair thinks that is relevant.

A. I never considered it in that light. I would not feel at liberty now, without careful consideration, to say what it would be worth to us.

Q. (By Mr. WORTHINGTON.) Now, in view of that answer, I will ask you, if I may be permitted, about your testimony which was given before the Judiciary Committee in answer to a similar question from a member of the committee, Mr. McCoy. Do not answer, Captain, until we see whether there is any objection to the question.

The PRESIDENT pro tempore. The counsel offers this for the purpose of refreshing the memory of the witness?

Mr. WORTHINGTON. Yes, sir.

Mr. Manager STERLING. On what page?

Mr. WORTHINGTON. Page 734; pretty near the top.

Mr. McCoy. Assuming that the title had been perfectly clear and that all the titles could have been gotten into the ownership of the Hillside Co., would it have had any considerable value then as a proposition to be worked?

Mr. MAY. The value was doubtful. If you will allow me to explain, we have a breaker called the Consolidated breaker, situated, I would

say—well, just about the distance Mr. Rittenhouse said yesterday—and we have next to that breaker a washery that I think was erected since this matter came up.

Mr. McCoy. You mean the Hillside Co. when you say "we"?

Mr. MAY. Yes; the Hillside Co.—always the Hillside Co. when I say "we"—that is, in this case. We had a culm bank made, or the Hillside I will say, has a culm bank made, from the operations of the Consolidated breaker. As I told you early in the session, the mine is on fire. Our culm bank is right over that fire. Our culm bank is on fire also. Now, it is to our interest to get that coal away from there as quickly as possible. We have been embarrassed for the want of water. We went to a great deal of expense—I wish I had the figures—to get water to wash our own bank, and then we have not enough. We are on the ragged edge there very often. Now we want to get that bank out of the road. We do not care to invest money in another bank that might burn while we were getting our own out of the road, when we could buy it later, probably, when values were more, and when we could get something out of it.

A. That is correct. I remember that now.

Q. You remember you so testified; and is that your present opinion about it?—A. Yes, sir.

Q. Is the fire still burning?

The WITNESS. In the mine?

Mr. WORTHINGTON. Yes.

A. It is. No, I beg pardon; we put it out; we just put it out a month or two ago.

Q. When you were having these negotiations with Judge Archbald for the sale of the Katydid culm dump was there any plan for washing at the Katydid dump?—A. Not at the Katydid dump.

Q. How much would it have cost to put a proper plant there to wash the dump?—A. It would cost, I estimated, to wash that bank itself, about \$10,000—that is, to erect the plant.

Q. What would the plant be worth as soon as the dump was washed away and the work finished?—A. It would be practically scrap.

Q. Capt. May, something has been said about Mr. Robertson wanting to buy this dump. I think in a letter which has been read here from Robertson to you, written in the summer of 1911, if I remember correctly, he said something about wanting to sell to or buy from the Hillside Co.?—A. Yes, sir.

Q. Do you remember that?—A. Yes, sir.

Q. What was that?—A. He wanted to know whether we wanted to buy his dump. That is in the letter.

Q. Did you seek to buy?—A. No; we did not seek to buy, for the reasons named that you read from the—

Q. That I read a few moments ago?—A. Yes, sir.

Q. Had the fact that Mr. Robertson was connected with this proposed sale anything to do with your recommending it?—A. Yes, sir.

Q. What was that?

The WITNESS. You mean which sale?

Mr. WORTHINGTON. The sale you were negotiating with Mr. Williams and Judge Archbald?

A. Yes.

Q. You knew, I presume, that while they were negotiating for your interest they were also negotiating for the Robertson interest?—A. The principal reason that I favored it was because I wanted Mr. Robertson to get his money out of it.

Q. Why? What were your feelings toward and relations with Robertson?—A. They were very friendly.

Q. Now what were the reasons you gave as to why the company sold the Florence dump or sold part of it or its interest in it?—A. We wanted to be free—

Mr. Manager CLAYTON. Mr. President, I respectfully submit to the Chair that where the counsel for the respondent has gone fully into a matter and the witness has given his testimony at length, it is a useless consumption of the time of the Senate to repeat it.

Mr. SIMPSON. We have not gone into it at all.

Mr. WORTHINGTON. It is the first question I have asked him about the sale of the Florence dump.

Mr. Manager CLAYTON. You predicated your question by saying to the witness you said so-and-so about it.

Mr. WORTHINGTON. He said something about it when examined by one of the managers. I have not asked him anything about it. I want to elaborate that a little and to show that the conditions surrounding the sale of the Florence dump were almost precisely the same as those which obtained in the case of the Katydid dump.

The PRESIDENT pro tempore. The witness will answer the question.

Q. (By Mr. WORTHINGTON.) I want to know what were the particular circumstances or what was the situation that induced you to recommend the sale of the Florence dump of the Hillside Coal & Iron Co.?—A. There were conflicting interests there.

Q. Conflicting interests as to what?—A. Conflicting interests as to what should be done with the bank, and in order to get

out of the trouble ourselves I was glad to recommend its sale—our interest in the sale.

Q. You mean your interest in the property?—A. In the bank.

Q. You did recommend it, and the sale was made?—A. Yes, sir.

Q. How long ago was that?—A. In 1910.

Q. About a year before you recommended the sale of the Katydid dump or agreed to recommend the sale of your interest in the Katydid dump?—A. Yes, sir.

Q. I notice you said "our company" to Mr. STERLING—"the Hillside Co. has not sold any other dumps." Was there any other particular thing you had in mind when you said "our"?—A. I meant the Hillside Co.

Q. On the letterhead you were using here the other day I noticed that the names of a number of companies appeared on the same letterhead?—A. Yes.

Q. How were they connected with the Hillside? You have all their names on the one letterhead?—A. I am vice president and general manager of three or four companies.

Q. Are they all subordinates of the Erie?—A. They are.

Q. Had these other companies been selling dumps?—A. The Pennsylvania Coal Co. has sold some fills—the old gravity road-bed. They were fills made with culm, and they have been disposed of.

Q. Is there any difference between a fill and a dump in regard to the question whether the railroad company will sell it or not?—A. Each transaction is surrounded with certain circumstances, and I can not remember what they are.

Q. It is a fact, then, that this other company, situated like the Hillside Coal & Iron Co., of which you are an officer, and another subordinate company of the Erie, has sold a number of culm dumps?—A. Has sold gravity railroad fills, but no dumps, as we call them.

Q. When these negotiations with Judge Archbald were going on, and when you agreed to sell to Bradley, what did you know, if anything, about the price that Conn was to pay?—A. I did not know.

Q. Did you know what Bradley was to pay, except what he was to pay to you?—A. No; I did not.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDENT pro tempore. Is there anything further that the managers desire from this witness?

Mr. Manager STERLING. Yes; Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) Mr. May, you understood at that time that the Hillside Coal & Iron Co. owned a half interest in the Katydid dump, did you not?—A. That is, not a half interest in the dump; in the coal from which the dump was made.

Q. Well, you claimed that you owned a half interest in whatever merchantable coal was made or was gotten out of the dump, did you not?—A. We had a royalty interest in the coal to be won out of the dump. I think, Judge, if you will allow me, that I know what you refer to. I did make the statement there—one-half interest in the bank. That was a mistake. I meant to say a half interest—

Q. Now, wait. You did testify before the committee that you had a half interest in the bank, did you not?—A. I said that; but that was an error.

Q. How many tons of merchantable coal in that bank did you estimate at that time?—A. That we estimated?

Q. Yes; or your engineers.—A. The estimate that our engineers made at the time that this letter refers to, in April, 1911—they gave the report to me of 55,000 tons of material in the entire bank—that is, in the entire culm bank.

Q. Let me refresh your recollection. This is immediately following what Mr. Worthington read to you.

Mr. SIMPSON. Page what?

Mr. Manager STERLING. Page 734. Mr. Thomas asked the question—

Mr. THOMAS. I want to ask a question. Capt. May, as I understand, the Hillside owns a half interest in fee simple in the culm bank, does it?

And you answered—

That is right.

A. Yes; but there was the error that I want to speak of—

Q. Then Mr. Thomas asked you—

According to your estimate, how many tons of coal did that bank contain? I do not care for you to go into the buckwheat and other kinds of coal, but what is the total number of tons of coal that the bank contained, according to your estimate?

Mr. MAY. Well—my own estimate?

Mr. THOMAS. Yes; the estimate you got from your engineers?

Mr. MAY. One of the engineers estimated 80,000 tons of material in the bank, and, based upon the test of our general inspector, he found there would be in the bank 556 tons of pea—

Mr. THOMAS. I do not care anything about that. I want the total number.

Mr. MAY. Forty-five thousand two hundred tons of merchantable coal.

You made that answer, did you not, when you were asked those questions?—A. I made that answer.

Q. I read from the record:

Mr. THOMAS. What is the total number of tons of coal that you estimate in that bank?

And did you not reply—

Forty-five thousand two hundred tons of merchantable coal.

Mr. THOMAS. Of merchantable coal?

Mr. MAY. Yes.

Those questions were asked you, and you made those answers, did you not?—A. Yes; I made those answers, but 42,000—

Q. Wait until I finish.—A. I beg your pardon.

Q. I again read:

Mr. THOMAS. And of that amount the Hillside Coal Co. would own one-half in fee simple?

Mr. MAY. They would.

Mr. THOMAS. That would be 22,500 tons?

Mr. MAY. Twenty-two thousand six hundred tons.

Mr. THOMAS. Twenty-two thousand six hundred tons?

Mr. MAY. Yes, sir.

Those questions were asked you, and you made those answers?—A. I made those answers, but—

Q. Wait until I finish.—A. All right.

Q. I again read:

Mr. THOMAS. Independent of the cost to get it on the market, what was that coal worth on the market?

Mr. MAY. I do not know.

Then at the bottom of the page:

Mr. THOMAS. I am not asking for the net amount. I am asking you what that coal brings on the market. What would it sell for a ton if it were shipped to Philadelphia or New York? What would it bring on the market there—such coal as there was in this culm bank? How much per ton would it bring on the market there?

Mr. MAY. I can give you the prices here. I think that will answer your question. This is a copy of the voucher from the Hillside Coal & Iron Co. to the Sterry Creek Coal Co., Scranton, Pa., for the month of August, 1911, paid on the 65 per cent basis, being the price at the breaker: Egg coal, 3.1468; stove, 3.1538; chestnut, 3.3081; pea, 1.7812; buckwheat, 1.4093; rice, 0.70; barley, 0.45.

Those were the prices which you quoted from a statement of an account which you had with the Sterry Creek Coal Co. at Scranton for coal which your company had sold to them, were they not?—A. I had that statement there giving—

Q. It was the price at which you sold the coal there in Scranton, was it not?—A. I had a copy of the Sterry Creek voucher there, and I read the prices off that voucher.

Q. "At the breaker." What does that mean—the price at the breaker?—A. It means just what it says; the price on board cars at the breaker.

Q. That is, at the mine?—A. At the mine.

Q. Was there egg coal in this dump?—A. No, sir.

Q. Any stove coal?—A. No, sir.

Q. Any chestnut?—A. There was a mixture of these three sizes in the dump, but not merchantable coal.

Q. Was there any chestnut coal?—A. Not that we could market.

Q. Any pea coal?—A. About one-half the pea coal could be marketed, probably.

Q. Buckwheat coal?—A. The buckwheat could be marketed.

Q. Well, there was buckwheat coal there?—A. Yes.

Q. And rice coal?—A. Yes.

Q. And barley?—A. Yes.

Q. So that the coal that you would expect to find in that dump was pea size, buckwheat size, rice size, and barley size?—A. Will you repeat that, please?

Q. The grades of coal that you would expect to get out or that were actually there in the dump were pea size, buckwheat size, rice size, and barley size?—A. Yes, sir.

Q. And that coal was worth in Scranton the price that you stated there in that examination, was it not?—A. It was worth that price at the consolidated breaker. I would like to explain, if you will allow me, that that was all based upon the theory that we owned an undivided half interest in the bank. That was based upon the theory that Robertson & Law had abandoned the property. I did not say that that was my theory, but based upon that theory that would be the result.

Q. What would be the result?—A. The values that you give there if there were 42,500 tons of coal in the bank.

Q. What difference does it make, Mr. May, as to the price of the coal per ton whether you owned a half interest or whether you owned all in the dump?—A. It would not make any difference as to the price of the coal, but it would make a difference as to the price we would charge for the property. That is, whatever right we had in it would make the price; and that was based upon the theory that the culm bank had been abandoned

and that we would have an undivided half interest in the bank.

Q. And your estimate, as you gave it there gave to the Hillside Coal & Iron Co. 22,600 tons of coal?—A. Based upon that theory.

Q. And the kind of coal that was in the dump was worth the prices which you stated there, ranging from \$1.78 to 45 cents per ton?—A. Yes, sir; that is correct.

Q. And it would average more than a dollar a ton in value right there at the dump, would it not?—A. No; it would not average that.

Q. Well, what do you think it would be worth, on an average?—A. On an average I could not tell you. I would have to have the proportion of sizes that would come out of the bank.

Q. Even if it were all barley coal, if that is the smallest size?—A. That would be 45 cents.

Q. Barley coal was worth 45 cents. Even if it was all barley coal, at 45 cents, the coal in your half would be worth four or five times as much as you were charging Judge Archbold and Williams for your interest in the dump, would it not?—A. No, sir.

Q. Well, how much would it amount to—22,600 tons?—A. You have not taken out of it at all the cost to put it on cars.

Q. How much would it amount to—22,600 tons, at half a dollar a ton, would be \$11,000, would it not?—A. Just about \$11,000; yes, sir.

Q. Let us look at these letters here which you received immediately after you sent this contract to Mr. Bradley. On that day, the 11th of April, Mr. Holden came into your office, did he not?—A. He did.

Q. And he gave you verbal notice not to sell his interest in the dump?—A. Yes, he did; I think he did.

Q. Yes; and you told him you were about to sell it?—A. I did.

Q. And talked with him about this transaction you were having with Williams?—A. As near as I recall it—

Q. Just answer my question, please. You talked with him about the transaction you were having with Williams?—A. No; not with Williams. I talked with Holden—

Q. I know, but you talked with Holden about the transaction you were about to have with Williams?—A. Yes.

Q. And you told him you had made out a contract and had sent it to Bradley for his approval?—A. No; because the contract had not yet been sent.

Q. Had you not made it out at that time?—A. Yes; it had been made out. It was on my desk.

Q. You sent it on the 11th?—A. I sent it on the 11th; yes.

Q. And you had the contract there?—A. Yes.

Q. And even after Holden notified you that he had an interest in there you sent the contract?—A. I did.

Q. Then Holden went to New York that day, did he not?—A. He did.

Q. And he wrote you a letter notifying you not to sell his interest?—A. He did.

Q. That is Exhibit D.—A. Yes.

Q. And then Mr. Bevan, as attorney for Mr. Holden, wrote you a letter the same date, April 11?—A. Yes, sir.

Q. Which gave you the same notice that Holden had given you when the contract was lying on your desk there, before you had sent it to Mr. Bradley?—A. Yes.

Q. What effect did those letters have upon you in having you recall the contract after you had sent it? If you sent it after Holden had already given you the notice, why did those letters influence you?—A. The very fact that I recalled it showed what effect they had upon me.

Q. Why did not the verbal notice given you by Holden have some effect and thus prevent you from sending it, if these letters from Holden and his lawyer had any influence on your conduct in that transaction?—A. It did have an influence upon me. That is what made me call it back—those letters.

Q. But you sent it out after you knew Mr. Holden's claim, did you not?—A. Yes; I did.

Q. Here is a letter from James A. Heckel, administrator for the Everhart estate, notifying you they had an interest. You got that, did you?—A. I did.

Q. It did not have any influence on your withdrawing it, did it?—A. It did.

Q. What is the date of that?—A. April 11.

Q. You knew before that that the Everharts had an interest and you were paying a royalty right along on their interest?—A. Royalty on sizes above pea, but not on sizes below pea.

Q. Were you manufacturing any coal in the colliery below pea size?—A. We were.

Q. You knew they had just the same interest in the dump that they had in the colliery, did you not, the dump having been created from the operation of the colliery?—A. No, sir.

Q. Did you not know that?—A. They had no interest in the colliery.

Q. Why do you say that they had no interest in the colliery? They had an interest in the land, did they not, on which the colliery—A. They had an interest in the land.

Q. Yes; and the Hillside Coal & Iron Co. had an interest in the land?—A. Yes.

Q. And the Hillside Coal & Iron Co. based its title to an interest in the dump on the fact that they had an interest in the land?—A. No, sir.

Q. On what did they base it?—A. The interest the Hillside Co. had in the bank was only a royalty interest. I have said that here several times.

Q. It was an interest in the coal, was it not?—A. It was a royalty interest in the coal.

Q. And it arose from the fact that the Hillside Coal & Iron Co. owned an interest in the land, did it not?—A. No; not necessarily.

Q. Not necessarily? Why would it not?—A. Because they also had the right to take the coal from the entire lot, lot 46, in which the Hillside had an undivided half interest. They sublet that to—

Q. Why did they not have a right to take the coal from that lot?

Mr. WORTHINGTON. I submit that the witness should not be interrupted in the midst of an answer. Let him finish.

The PRESIDENT pro tempore. Let the witness finish his answer.

The WITNESS. The Hillside Co. sublet that at an increased royalty to Robertson & Law. Therefore the Hillside only had a royalty right in the coal that could be won from that bank.

Q. (By Mr. Manager STERLING.) It was based on your interest in the land, was it not?—A. No, sir.

Q. How could you lease anything if you did not have an interest in the land?—A. We had an interest. I hate to take up the time, but we had the right from the other interests, by a letter, to mine that coal.

Q. From what other interests?—A. The other undivided half interest. And based upon that we had a right to the coal. Whether it was a fee right or not is for the lawyers to determine. We sublet that to Robertson & Law, and the royalty that we were to obtain from the coal was what we were to get for our right.

Q. And the Everhart interest was based on the same sort of a claim, was it not—that they had an interest in the land?—A. No. Their interest—yes; that is true in one sense.

Q. Of course it is true. There is no use to try to—

Mr. WORTHINGTON. I object to any such remark being made to a witness.

Mr. Manager STERLING. The witness has answered it, and let us stop right there.

The PRESIDENT pro tempore. Let the witness complete the reply.

Mr. WORTHINGTON. May I ask whether the President heard the remark made by Mr. STERLING to the witness? If not, I should like to have it read, to see whether the Chair rules that it is proper to address the witness in that way.

The PRESIDENT pro tempore. What was the particular remark?

Mr. WORTHINGTON. It was referring to the witness, practically telling him, as a matter of fact, that what he was saying was not true, as I understood it.

Mr. Manager STERLING. I did not say anything like that to the witness.

Mr. WORTHINGTON. I ask to have it read.

Mr. Manager STERLING. Let us have it read.

The PRESIDENT pro tempore. The stenographer will read the question or remark of the manager.

The Reporter read as follows:

Q. And the Everhart interest was based on the same sort of a claim, was it not—that they had an interest in the land?—A. No; their interest—yes; that is true in one sense.

Q. Of course it is true. There is no use to try to—

Mr. WORTHINGTON. "There is no use to try to." Then you did not finish, but you were telling the witness practically that there was no use in trying to conceal something.

Mr. Manager STERLING. My purpose was that I wanted to insist that the witness had answered the question already.

The PRESIDENT pro tempore. At least the manager had not uttered the word which the counsel anticipated he would utter.

Mr. WORTHINGTON. I stopped him.

The PRESIDENT pro tempore. The Chair can not assume what was the intention of the manager.

Q. (By Mr. Manager STERLING.) Did this letter from Mr. Taylor have any influence on you in publishing your recall of the Bradley contract?—A. No, sir.

Q. It was not written until the week after the Bradley contract was withdrawn, was it?—A. Yes, sir; it was written afterwards.

Q. On the 19th. This letter from Mr. Saltonstall was written on April 13, and it was received on the 16th?—A. It was afterwards.

Q. That was after you had withdrawn the contract, was it not?—A. Yes, sir.

Q. So that the only notice you had before you withdrew the contract was the one from Holden, and you had that before you sent the contract out—the verbal notice—did you not?—A. Oh, no. I had from Mr. Heckel, the administrator—

Q. Wait, now. You had the verbal notice from Holden before you sent the contract out, did you not?—A. That is correct.

Q. Then you got one other letter—and just one—after you had sent it out and before you got it in, did you not?—A. I received three letters.

Q. Listen to my question. After you had sent the contract to Bradley and before you got it back, you received just one letter?—A. No; I can not agree to that.

Q. What three did you get besides the Holden claim?—A. Oh, I only received the Heckel letter outside of the letter from Mr. C. P. Holden and his attorney. Now I understand you.

Q. You do not mean Heckel—that is, the Everhart interest?—A. James Everhart.

Q. Outside the Holden notice you just got the Heckel notice, this administrator of the Everhart estate?—A. Yes, sir.

Q. The Everhart estate you knew had an interest in it, because you had been paying them a royalty for years, had you not?—A. Not an interest in the land, but in the bank.

Q. Mr. May, as a matter of fact, these notices had not a particle of influence in your action in rescinding that contract with Bradley?—A. Yes; they did.

Mr. Manager STERLING. I think that is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) When did you consult your counsel or the counsel of the Hillside Coal & Iron Co. about the effect of this notice?—A. I think it was on the morning of the 12th. That is my recollection.

Q. Did you state which member or members of the firm you consulted?—A. Judge Knapp.

Q. Of the firm you mentioned?—A. Yes, sir.

Q. Is he still living?—A. He is.

Q. You said, I understand, that the interest of the Everharts or the relations between you and Everhart were represented by a letter?—A. That is tradition, that it is represented by a letter.

Q. I ask you if this matter is complicated by that letter having become lost?—A. The letter is lost; that is, we can not find it, and therefore it must be lost.

Q. In reference to your testimony before the Judiciary Committee, which has just been read from pages 734 and 735, where you said that you had a one-half interest in this dump, and you say that was a mistake, I want to ask you whether you did not almost immediately correct it before the Judiciary Committee by what you said on page 737? I read from page 737, question by Mr. FLOYD:

If you agree to sell—

Mr. Manager CLAYTON. Mr. President, I submit the proper way is to ask the witness if he did correct it, and then, if the witness says he did not correct it, it is proper to read from the record. That has been the ruling of the Chair, as I understand it.

Mr. WORTHINGTON. I do not understand that the Chair made such a ruling. It would be very imperfect.

The PRESIDENT pro tempore. The Chair thinks if the testimony of the witness was read from the book it will be competent for further reading in the same direction. So that the Chair may not be misunderstood, he will state that in the absence of the fact that it had been so done the Chair would rule otherwise.

Mr. WORTHINGTON. I read from page 737:

Mr. FLOYD. If you agree to sell it to Mr. Williams for a certain price and Mr. Williams in turn makes a contract to sell it to this railroad company that you had been supplying with fuel, do you regard it as good business to sell it at this reduced price when you might have sold it directly to the railroad company for this advanced price?

Mr. MAY. But we did not own the bank. We only had an undivided interest. We only had an interest in the royalty arising from the coal taken out of that bank.

Mr. FLOYD. That does not answer my question.

Mr. MAY. We had not the authority to sell that bank, or rather the right, I mean.

Mr. FLOYD. You owned in fee simple an undivided half interest in it, did you not?

Mr. MAY. Yes; an undivided one-half interest; but it had been made by Robertson & Law under an arrangement with us, and equitably the bank belonged to Robertson & Law.

[To the witness.] Is that what you testified to there?—A. That is correct.

Q. In reference to what you have been asked about the sale of the Katydid and the value of the different kinds of coal in that dump, I think you said that amount on the cars at the dump would be worth \$12,000; was it?—A. That was only a supposition. The judge asked me whether if it were worth 50 cents a ton it would be worth so much on the cars and I said yes.

Q. Then you said something about that not taking into account the cost of putting it on the cars?—A. That is correct.

Q. What would be the cost of putting it on the cars which would bring the figure up to \$12,000?—A. If you take the average of our washers, it would be about 45 cents a ton.

Q. That would be the cost of putting it on the cars?—A. Yes, sir.

Q. And if you sold it for 45 cents a ton you would not make anything?—A. No, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) Just one question. The 45-cent coal was the barley size, was it not?—A. Yes, sir.

Q. What proportion of it was barley?—A. This is a guess. About 31 per cent I should say.

Q. Then more than two-thirds of it was ranging from 70 cents to \$1.78 a ton?—A. Yes, sir.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. The witness will retire. The Sergeant at Arms will call the next witness.

Mr. MAY. Am I excused?

The PRESIDENT pro tempore. Do the managers desire to have the witness remain in attendance?

Mr. Manager STERLING. I think we are not prepared to excuse him now. If he can see Manager Clayton after adjournment he will probably find whether he can be excused permanently or not.

Mr. Manager CLAYTON. I may say, Mr. President, I think we will excuse him, but I desire to have a brief conversation with my brother managers before finally determining that matter. I say this for the benefit of Col. Worthington now. I should have said Mr. Worthington, for he stripped himself of his military title yesterday.

COURT OF COMMERCE CALENDAR.

Mr. ROOT. Mr. President, I submit a request and ask that it be read.

The PRESIDENT pro tempore. The Senator from New York makes a request, which will be put in the form of an order if it is desired. The Secretary will read it.

The Secretary read as follows:

I ask for the production and identification of the printed trial list or calendar of the Court of Commerce in March and April, 1911.

The PRESIDENT pro tempore. The Chair suggests that the Senate will act upon it as if put in the form of an order. Is there objection to the adoption of this order?

Mr. Manager CLAYTON. Mr. President, may I be permitted to make a statement? The managers determined in the preparation of this case to produce the document which the Senate desires. I may say that I do not think an order of the kind is necessary, for we can inform the Chair that it is our purpose and that we will produce the document specified in the request which is preferred by the Senator from New York.

Mr. WORTHINGTON. There will be no objection from us, Mr. President. We have been trying ourselves to get that document.

Mr. ROOT. I withdraw the request.

The PRESIDENT pro tempore. The managers will call the next witness.

DEPOSITION OF E. J. WILLIAMS BEFORE WRISLEY BROWN.

Mr. Manager STERLING. Mr. President, when the court adjourned last night the question was pending as to the admission of the examination of Mr. Williams before Mr. Brown at Scranton, Pa. We offered it and Mr. Worthington objected. We desire now to renew the offer and hear from Mr. Worthington if he has anything further to say in regard to it.

The PRESIDENT pro tempore. The Chair will desire to hear from the counsel for the respondent on that subject and the Chair will also hear the managers.

Mr. Manager STERLING. Mr. President, we believe that this is entirely competent and we believe that it is highly important. The paper which we offered in evidence yesterday and

for which we again renew our offer is Exhibit 7, the examination of Edward J. Williams, at Scranton, Pa., March 16 and 17 of this year, made by Mr. Wrisley Brown, representing the Department of Justice, who was sent there by the Attorney General to investigate this case.

The PRESIDENT pro tempore. The Chair will desire the manager to state the ground upon which he offers it, whether it is for the purpose of contradicting the witness; and, if so, upon what ground he claims the right to contradict the witness; or whether it is because of the fact that the managers claim they have been entrapped by the witness.

Mr. Manager STERLING. We have two grounds, Mr. President, on which we insist that it is competent to have it read to the court. In the examination of Mr. Williams yesterday the counsel for the respondent referred to it at two different times and in two different ways. In one instance he asked the witness if Mr. William P. Boland had not conducted most of the examination and had not asked most of the questions at the time the deposition was taken. The fact is, and the deposition itself will disclose the fact, that Mr. Boland did not ask the questions. I think in only two or three instances did he ask questions.

The PRESIDENT pro tempore. The Chair does not rule that the questions themselves can not be proven, but, as the Chair stated yesterday, he wants to hear from the managers or the counsel now on the question whether not only the questions but the answers should be put in evidence.

Mr. Manager STERLING. Yes, sir; we desire to have all of it put in. The first reason for it is to rebut the assumption made by the counsel on the other side and to rebut the testimony of the witness in which he answered that William P. Boland had asked the questions. The deposition will disclose that Boland asked three or four questions and suggested in several instances what should be asked the witness.

Now, we think it is competent to have it go in to disprove that fact for the reason that Mr. Worthington's contention in this case largely seems to be that there was a conspiracy in which Mr. William P. Boland was a party to inveigle the judge into this transaction. So we think that it all ought to go in for that purpose. But it is competent on another ground, and it is very important on another ground.

In numerous instances the statements made by this witness, when examined by Mr. Brown, of Scranton, contradict the answers which were drawn out of him on cross-examination by counsel for the respondent. We think this is entirely proper where counsel on the other side draws answers from this witness to contradict statements he has made before, and especially statements in an examination on the very same subject and statements made under oath. We think it is perfectly competent to offer the entire deposition for the purpose of contradicting this witness as to those parts of his cross-examination where he contradicted his former statements.

I believe it is the universal rule of evidence that where a witness makes statements on the stand contrary to statements he had made prior to that time his former statements, in whatever form they may be, especially when they are sworn to, when they relate to the same case and are evidence given in the same case, are competent to contradict the statements of that witness. This deposition here is replete with evidence contradicting statements made by Mr. Williams yesterday on cross-examination drawn out of him by counsel for the respondent.

May I call the attention of the court to some of these instances?

The PRESIDENT pro tempore. If the honorable manager will permit the Chair, it may hasten the consideration of the question. The Chair ruled on yesterday that if the managers in offering conflicting testimony to that furnished by their own witness would state that they had been entrapped by the witness—in other words, that they had relied upon his testimony in the confidence that he would testify as he had previously testified—they would be entitled to show that he had sworn differently on a former occasion. But unless the managers do state that, the Chair will hear further argument on it from them.

Mr. Manager STERLING. I will say further, Mr. President, that in the statement which I just now made I confined myself to the fact that it contradicted many statements made by the witness on cross-examination. It is true that it does contradict many statements he made on the stand before this court in direct examination.

I am aware of the usual rule that we could not put in documentary evidence or a deposition to contradict our own witness. But there is an exception to that rule. I think this is a case where the exception should be applied and where it has already been applied by the ruling of the Presiding Officer in

this case, because Mr. Manager WEBB was allowed to refer to the examination before the Judiciary Committee. That was before the cross-examination had occurred. He asked the witness if he had not made statements then contradictory to his statements here, and the Chair admitted it for the reason that he was an unwilling and a hostile witness.

Of course, we expected this witness to testify to what he had testified to before. We were deceived in the testimony of this witness. It was on the ground that he was hostile and adverse, as I understand it, that the court permitted Manager WEBB to ask him on direct examination as to whether he had not made statements to a contrary effect in his examination before the Judiciary Committee.

So we say now that this is a different examination on the same subject by Mr. Brown at Scranton, and that it contradicts this witness both in the statements he made here on direct examination and in the statements he made on cross-examination. They are entirely different. He made answers that we were not expecting from this witness. He made answers, too, after he had conferred at least twice with the counsel on the other side of this case and after he had made the other deposition.

We submit that it is perfectly proper, and we submit that this court can not get the truth of this case unless it knows what this man Williams said and what he gave out to be the truth before he was called here before this court, when these things were fresh in his mind.

I submit that it ought to be the purpose of every investigation of this kind that the body to determine the rights of this man should know the truth and all the truth, and it is on that ground, to get at the simple, plain facts in this case, so that we may know all, that we ask that the testimony of this witness Williams be read in full as it was taken at Scranton.

Mr. WORTHINGTON. Mr. President—

The PRESIDENT pro tempore. Before the counsel proceeds—

Mr. Manager CLAYTON. Mr. President, I do not wish to offend against the suggestion made by the Chair yesterday—

The PRESIDENT pro tempore. The manager will permit the Chair to make a statement, and possibly it may make the argument unnecessary.

Mr. Manager CLAYTON. I submit to the suggestion of the Chair very cheerfully.

The PRESIDENT pro tempore. The Chair simply wishes to know whether it is the purpose or design of the managers to offer this deposition upon the ground that they have been deceived by the witness and entrapped by him?

Mr. Manager STERLING. Yes, sir; that is one of the reasons, I will say, Mr. President.

The PRESIDENT pro tempore. Very well. The Chair stated yesterday if it was offered on that ground, then, in the opinion of the Chair, it would be competent evidence. The Chair still adheres to that, but will hear from counsel for the respondent on that proposition.

Mr. Manager CLAYTON. Mr. President, I wanted to know if I might be permitted—I do not know whether I can be permitted—to reply to Col. Worthington, I beg his pardon, I should have said Mr. Worthington, after he has concluded, or if I shall submit my observation now. I wish to be directed by the Chair as to the time.

The PRESIDENT pro tempore. The Chair has substantially indicated his purpose to rule with the managers, but if the managers desire it they will be further heard on the proposition.

Mr. Manager CLAYTON. Then I suppose unless the Chair's present mental attitude is disturbed by the argument of the counsel for the respondent he will adhere to his ruling. If he should indicate a change, then I shall ask to be heard.

The PRESIDENT pro tempore. If after hearing from counsel for respondent the view of the Chair is in any manner changed he will hear further from the managers.

Mr. WORTHINGTON. Mr. President, so far as the order of argument is concerned, as the Chair announced the other day, ordinarily the objector makes his objection, the opposing side answers it, and the objector has the conclusion. I was about making the opening, but the Chair permitted the managers to state what they have to say about it, and I can now reply so far as I am concerned.

The PRESIDENT pro tempore. The attitude of the Chair is that upon the proposition as presented the evidence would be admissible to the extent that it contradicted the evidence which the witness had given in either direct or indirect examination, upon the distinct ground that relying upon evidence previously given by him they had put up the witness and had been entrapped by him in the fact that he had given evidence to the contrary upon this examination.

Mr. WORTHINGTON. Let me, in the first place, recur to what happened which first drew attention to this testimony or deposition, or whatever it may be called, that Williams made to Mr. Wrisley Brown. This is what took place on page 191 of the record of these proceedings:

Q. Who was present when Mr. Brown took your testimony?—A. William P. Boland and Wrisley Brown.

Q. William P. Boland was there all the time, was he not?—A. William P. Boland was the man who asked all the questions.

Q. I was going to ask you whether he did not conduct the examination, largely?—A. Yes; he conducted the inquiry.

My proposition, in the first place, would be that the managers would have the right to show how many questions were asked by Boland and what was the proportion of those to the questions asked altogether. If it is proposed to do that I have no objection.

Now, as to the situation in reference to putting in this deposition en bloc, I certainly submit, Mr. President, it is unprecedented. If the managers wish to show that as to certain matters in his statement before Wrisley Brown under oath he stated things which were contradictory to what he testified here, either on the direct examination or on the cross-examination, for the purpose of showing that he is not to be believed on his oath; if they put a witness on the stand whom they believed to be a credible witness and were surprised by the testimony, and want to show that he has made statements to the contrary elsewhere, for the purpose of showing that he ought not to be believed on oath, they have that right, not to have the whole deposition put in, but such parts of it as they think will have that effect. If they offer it for that purpose we have no objection.

If, on the other hand, the purpose is or it should be intended to use anything that was said there for the purpose of refreshing the recollection of the witness or for the purpose of showing merely that he has made different statements for the purpose of letting the Senate get at the truth of the matter, the first principle of the law of evidence and the first principle, it seems to me, of common justice is that Mr. Williams must be brought here and must be asked whether he did not testify thus and so before Mr. Wrisley Brown, so that he may be afforded the opportunity which every witness is afforded when it is undertaken to show that he made contradictory statements to the court and to see what explanation he has to make of them.

Now, if it is proposed to read the whole deposition without reference as to whether it bears upon anything that was said here or not, or without having Mr. Williams brought here, it seems to me that that can not be done and that it would be very unfair to Judge Archbald, as well as unfair to the witness himself.

The PRESIDENT pro tempore. If the proposition be simply to disprove the statement of the witness as to the number of questions which had been asked by Mr. Boland, the Chair would undoubtedly rule that only the questions themselves could be put in evidence for the purpose of contradicting him to that extent. But the Chair thinks it is a well-recognized rule, which is found in every jurisdiction, that where a witness is put up by a party and where the party who offers him as a witness has had previous information from him as to what his testimony would be, and upon his examination he gives testimony contrary to that former testimony, the party offering that witness can prove the former statements of the witness if he will state in his place that he has been entrapped by him; that relying upon the evidence that he had given and that he would again testify as he had previously done, they have put him up and they have been entrapped and surprised by the fact that he then testified to matters in conflict to what he had previously testified.

The Chair thinks that is a well-recognized rule of law. It is not for the purpose of impeaching the witness, though it might be called one class of impeachment. It is for the purpose of negating testimony which he had given and which the counsel otherwise would be bound by, they themselves having put him up.

It is upon that ground alone that the Chair made the same announcement yesterday he now makes. If the managers yesterday had stated that they offered the deposition on the ground that they had been entrapped, the Chair would then have ruled that, in the opinion of the Chair, subject, of course, always to the judgment of the Senate, the deposition could be received.

The Chair will add, so far as the bulk of this testimony is concerned, unless it is in the main, generally as well as specifically, upon the particular points in which the counsel have been entrapped, that only such parts of it as do relate to that contradiction in his testimony would be admissible; but on the statement of the counsel, that they have been thus en-

trapped, the Chair is of the opinion that to that extent it is admissible.

Mr. WORTHINGTON. Let me add just one word, Mr. President. I concede that, if the managers offer the evidence for the purpose of showing that they had been entrapped, it would be competent, and we would not object, provided it is put in for the purpose of showing that the witness is not to be believed on oath. That is the reason it can be admitted. I submit now, Mr. President, that statements made under such circumstances by any witness in an ex parte examination up there in Scranton, when Judge Archbald was not present and was not represented by counsel, can not be used as evidence of facts testified to here as against him. No evidence can be used as against Judge Archbald except that which was taken when he had an opportunity to be heard.

The PRESIDENT pro tempore. Counsel for the respondent will, of course, have the right to recall the witness and require him to make such explanation of the apparent conflict as is proper and consistent with his information; he is not debarred from that privilege; but the Chair will respectfully suggest to the counsel that the purpose of that rule is not to impeach a witness and establish the fact that he is not to be believed on oath, because, if that were the case, a party could never put up an adverse witness. He is entitled to the testimony of this witness, and he is entitled to have the truth ascertained from the testimony of the witness and from his conflicting statements, so far as that can be done by the court. The Chair has said "the court," but he means any court, not simply this one. The Chair thinks that is a correct rule of law and that is the principle upon which it is based.

Mr. WORTHINGTON. That what was said to Mr. Brown in Scranton is evidence against Judge Archbald?

The PRESIDENT pro tempore. It is for the purpose of negating the testimony which he has now stated in conflict with his previous statements. That is the purpose of it. The counsel will recognize the fact that a party when he puts up a witness is bound by his evidence, and when that witness gives evidence which is adverse to the interest of the party putting him up, but has previously made statements upon which the party relied when he put him up, the party is entitled to introduce that evidence for the purpose of negating the effect of that unfavorable testimony. That is the extent to which, as the Chair understands, the purpose of the introduction of the evidence is limited.

Mr. SIMPSON. Does not the Chair think that the managers are obliged, even under that rule, to pick out the evidence which they say caused them to be entrapped and not put in in bulk a deposition of 28 pages, for that is what they are undertaking to do?

The PRESIDENT pro tempore. The Chair stated that unless the evidence was contradictory of evidence which the witness had given, unless it was either specifically or in the main generally so, of course, that which was not so classified would not be admitted. The Chair is not able to say whether there are matters in the paper which go beyond that limitation. If there are, the Chair thinks the suggestion of counsel is correct and that that additional matter should not be admitted.

Mr. SIMPSON. Then there is but one way to do.

The PRESIDENT pro tempore. The Chair would suggest that as that is a voluminous document, possibly it had better be withheld—there is ample time for it—for the purpose of having counsel examine and determine what part is strictly contradictory and what is not.

Mr. Manager STERLING. There are 53 pages. The evidence which contradicts Mr. Williams's statement is scattered through the entire deposition. Of course we do not care to take the time of the court to read any part of that except that which does contradict it, and, at the suggestion of the president, we will withhold it and pick out those parts that we want to read and submit them at some other time.

Mr. SIMPSON. And advise counsel for the respondent which they are, so that if there is any objection to them it may be brought to the attention of the President.

Mr. Manager STERLING. I did not catch the suggestion.

Mr. SIMPSON. And advise counsel which are the parts which the managers think ought to be read under the rule, so that if there is any objection to their reading any part of them the President and the Senate may know of it and rule upon it in due course.

Mr. Manager STERLING. We will submit it to counsel for the respondent.

Mr. Manager CLAYTON. Mr. President, may I inquire when the argument on the admissibility of this testimony will be concluded? The counsel for the respondent yesterday claimed

the right to conclude, and the Chair very kindly—and I thank him for it—made a very valuable suggestion, which should guide the counsel. It seems to me that the Chair has been very indulgent and has prolonged the debate between the Chair and counsel for the respondent. I wish to know if the debate upon this proposition is to be continued to-morrow, or if when we indicate, in response to the suggestion of the Chair, what we think is admissible, that will conclude the debate, and the Chair will then declare the deposition or the paper admitted to evidence without any further debate on the question?

The PRESIDENT pro tempore. The Chair did not desire to discriminate against the managers. He decided in favor of the managers, and did not suppose that any further argument would be desired on that side. Of course, if an issue is hereafter raised as to which part of the paper is admissible and which part of it should be excluded, then the same rule will apply as to the continuation of the discussion, and certainly both sides shall have full right to be heard upon it. The Chair only now puts it upon the ground that he has decided the paper admissible so far as it contains the matter in question.

Mr. Manager CLAYTON. I so understand. I think that so far as the matter now stands the argument has been concluded.

The PRESIDENT pro tempore. It has been.

Mr. Manager CLAYTON. Mr. President, the other day, in the opening of this case, Mr. J. A. Richardson was subpoenaed as a witness on behalf of the managers of the House of Representatives, and service was made upon him, according to the return, as I have been informed, by the Sergeant at Arms of the Senate. A telegram has been received here at Washington—I have forgotten exactly by whom, but it was called to my attention—containing a request on the part of Mr. Richardson that he be notified when his presence would be required. He was notified yesterday by wire. I had the clerk of the Judiciary Committee of the House of Representatives send, at my instance, a wire to Mr. Richardson informing him that he must be here to-day. He is not here; and we wanted to examine him at this time for the orderly conduct and presentation of the case. I shall, therefore, ask for an attachment. First, I will ask if the Chair—and I rather think in a matter of this sort that is the proper course—if service has been made upon Mr. Richardson?

The PRESIDENT pro tempore. The Chair is informed by the Assistant Sergeant at Arms that this witness is ill and in a hospital in New York, consequent upon a stroke of paralysis, and that the officers have not been permitted to serve him.

Mr. Manager CLAYTON. Mr. President, I should not insist upon an order of attachment if that statement could be made to the Senate under oath, that from reliable information the deponent believes—and he will state the facts upon which he founds that belief—that this witness is ill and detained by the circumstances which have just been stated by the Chair. I shall not, however, now ask for the order.

The PRESIDENT pro tempore. The Chair suggests that the application for the order be postponed until to-morrow, as the officer from whom this information has been secured and who endeavored to make the service is not now immediately in the Capitol Building, but the information will be definitely given the managers to-morrow.

Mr. Manager CLAYTON. I can say, then, that the managers will adopt the suggestion made by the Chair and will let it take that course.

Mr. Manager STERLING. Mr. President, in the event the witness is sick and can not appear, we shall offer the deposition of his evidence that was made before the Judiciary Committee in lieu of his testimony here. I do not know whether or not there will be any objection to that by counsel.

Mr. SIMPSON. When we get that far we will decide that, Mr. STERLING.

I may say, Mr. President, there will be no necessity to call the stenographer who took the testimony. If we agree that it shall be read, it may be read from the printed book. If we disagree, we shall still agree that the printed book shows it with substantial accuracy, so that you may have no more trouble about it.

Mr. Manager NORRIS. May I ask the counsel whether, since we have another witness who is in the same condition, that will apply to Witness Watson?

Mr. SIMPSON. That will apply to any witness whatsoever.

Mr. Manager STERLING. It will not be necessary to call the stenographer in any case where we can agree that the printed testimony shall be subject only to such objections as the stenographer's testimony would be subject to.

Mr. SIMPSON. Precisely so, sir.

Mr. Manager CLAYTON. Mr. President, do I understand the counsel to assent to this proposition as being the law—it is the law in some of the States of the Union, if not in all of them—that where a witness has appeared before a court, has been duly sworn, examined, and cross-examined by the person accused or by the person entitled to cross-examine him, if the witness is dead or is beyond the jurisdiction of the court it is quite competent to introduce his testimony given in the former court proceeding? I understand that proposition to be agreed to.

Mr. WORTHINGTON and Mr. SIMPSON. No! No!

Mr. Manager CLAYTON. Of course, the testimony is subject to legal exceptions. That rule applies only to legal testimony.

The PRESIDENT pro tempore. The Chair will rule on that question when such evidence is offered.

Mr. Manager CLAYTON. I was not asking the Chair to rule upon it. I was only asking, for information, if the counsel for the respondent assented to that proposition.

Mr. WORTHINGTON. I will state to the managers that I do not assent to it. It may be that as to any testimony they may offer we will not object to its going in, but if we do, it will be on the ground that we do not object to the testimony getting before the Senate because we think it states the facts; but if the question of law should arise as to whether they have any right to use testimony taken before the Judiciary Committee, we shall probably want to have that matter settled by the Presiding Officer or by the Senate.

The PRESIDENT pro tempore. The managers will call their next witness.

TESTIMONY OF GEORGE F. BROWNELL.

George F. Brownell entered the Chamber.

The PRESIDENT pro tempore (to the witness). Give your name and address to the Secretary.

The WITNESS. George F. Brownell, 50 Church Street, New York City.

The witness having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, where do you reside?—A. New York City.

Q. What is your business?—A. I am a member of the New York bar and am a railroad official.

Q. What railroad are you connected with?—A. Principally with the Erie Railroad Co.

Q. What official capacity do you have with the Erie Railroad Co.?—A. Vice president and general solicitor of the Erie Railroad Co.

Q. Where are your offices in New York City?—A. 50 Church Street.

Q. What relation does the Erie Railroad sustain to the Hillside Coal & Iron Co.?—A. That of stockholder.

Q. What relation does it sustain as to whether or not it is a majority stockholder or controls all the stock?—A. It is the owner of substantially all of the capital stock.

Q. How about the officers of the Hillside and the Erie; are they interlocking officers?—A. A number of the officers of the Erie Railroad Co. are also officers of the Hillside Co.

Q. On or about August 4, 1911, did the Erie road have any litigation in the Commerce Court of the United States?—A. At that time there were two cases on the docket of the Commerce Court. I will say—

Mr. Manager HOWLAND. That answers the question.

Mr. SIMPSON. The witness has a right to explain it so as to make it clear.

Mr. Manager HOWLAND. The manager is asking the questions just now. There will be plenty of opportunity to explain all of these questions in due order.

Mr. SIMPSON. I submit, Mr. President, when a witness is answering a question he has a right to complete his answer so as to make it clear to the Senate what his answer is, and the manager has no right to interrupt him in making a clear statement as to what his answer is. If the witness gets beyond that point, of course, the manager has the right to interrupt him.

Mr. Manager CLAYTON. Mr. President, I desire to make a remark, with your permission. If the counsel wishes to arrest the examination, if counsel objects to the question asked by the manager or to the conduct of the manager, the rules of the Senate, as I understand, and of this court require him to address the Chair, and through the Chair make known his objection, and not by injecting these "side-bar" remarks that are common to a courthouse, but, I am glad to say, are uncommon in the practice of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. The Chair will rule that the manager has the right to conduct his examination in his own way and confine it within the limits of his questions if he desires to do so, and that then the witness shall, before he leaves the stand, have full opportunity to explain any answer he has made.

The manager in examining a witness has the right to confine him within the limits of the interrogation which he desires to submit, but the witness certainly must have the opportunity either before the direct examination concludes or under cross-examination to explain fully any answer which he may make.

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, are you acquainted with Judge Archbald?—A. Slightly, sir.

Q. Where did you first meet the judge?—A. I first met Judge Archbald in Washington shortly after the organization of the Commerce Court, when I was present in the courthouse, and together with other members of the bar was presented by the Chief Justice to Judge Archbald in common with the other justices of the Commerce Court.

Q. Did you have any correspondence or have you received any letters from Judge Archbald?—A. On the first day of August, 1911, I received a note from Judge Archbald, bearing date of July 31, to which I made a reply on the date of its receipt. I have had no other correspondence with him.

Q. I hand you a paper writing and ask you whether or not that is the note which you received from Judge Archbald on the date you mention?—A. Yes, sir.

Mr. Manager HOWLAND. I will ask to have the letter read by the Secretary, and then I will offer it in evidence. I do not know what exhibit it will be, but it will be the next consecutive number.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper marked "Exhibit 19," as follows:

[U. S. S. Exhibit 19.]

(United States Commerce Court.)

SCRANTON, PA., July 31.

DEAR SIR: Permit me to inquire whether you are to be in your office on Friday of this week and at what hour other than between 2 and 3 it would be convenient for you to see me. I am to be in New York that day and may desire to call and see you for a few minutes.

Yours, very truly,

R. W. ARCHBALD.

The SECRETARY. On the front page is the stamp:

Erie Railroad, August 1, 1911. Vice president and general solicitor.

Mr. Manager HOWLAND. Mr. President, I offer that letter in evidence and ask to have it marked.

The PRESIDENT pro tempore. The letter just read is in evidence.

Q. (By Mr. Manager HOWLAND.) Did you reply to that letter from Judge Archbald, Mr. Brownell?—A. Yes, sir; on August 1.

Q. I will hand you a paper writing and ask you to identify it if you will. [The paper was handed to the witness.] What is that paper writing?—A. It is a carbon copy of the letter I wrote to Judge Archbald on the date of August 1, in reply to the one which has just been read.

Q. Written by you or dictated by yourself in reply to that?—A. It was dictated by myself. It bears the initial of my stenographer, and the original was signed by me.

Mr. Manager HOWLAND. I now ask to have the letter read.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read the letter, marked "Exhibit 20," as follows:

[U. S. S. Exhibit 20.]

AUGUST 1, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

DEAR SIR: I have just received your favor of yesterday. Unless prevented by something now unforeseen, I will be at my office all day Friday and shall be glad to see you at any time convenient for you which you may designate. If equally convenient for you, I would suggest some time between 10 and 12 a. m., or, if you have no other engagement for that hour, I would be very glad to have you lunch with me at the Railroad Club, which is in this building, at 1 o'clock.

Yours, very truly,

Mr. Manager HOWLAND. I now offer the letter in evidence and ask to have it marked the proper number as an exhibit.

The PRESIDENT pro tempore. That will be done.

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, did Judge Archbald keep the engagement which you made with him in this correspondence?—A. I do not understand that I made an engagement by the correspondence.

Q. Did Judge Archbald meet you at your offices at the time which you suggested?—A. I did not receive any further word or message from Judge Archbald, but he called at my office during the forenoon of Friday, August 4.

Q. What did Judge Archbald say to you when he called?—A. I can only give you my best recollection of the substance. I can not undertake to state the language of the conversation.

Q. What did he say, to the best of your recollection?—A. Judge Archbald said, in substance, that he was interested in an endeavor to clear up the title to certain coal property near Scranton or Moosic, Pa.; that the Hillside Coal & Iron Co. had or claimed some interest or claim, as I understood, of a disputed fractional character to this property; that negotiations had been had with Capt. May, the then general manager of the Hillside Coal & Iron Co., for the acquisition of this claim or interest of the Hillside Co.; that no reply had been received—no final reply—and that he understood that the matter had been referred to the New York offices; that he was in the city, I understood him to say, in connection with other matters than court duties, and that he had called for the purpose of ascertaining where the matter was. My recollection is that he said—

Mr. Manager HOWLAND. Go ahead, if he said anything further.

The WITNESS. My recollection is that he said that he did not know any other of the New York officers of the company except myself, and so had taken the liberty of asking me if I could tell him who would have charge of the subject matter. I said to Judge Archbald—

Q. Wait a minute. I was about to ask you what you said to Judge Archbald in reply to this preliminary statement of his. Now, go ahead.—A. I said to Judge Archbald that while I was counsel for the Hillside Coal & Iron Co. I was not an executive officer of that company and had nothing to do with its business operations; that Mr. G. A. Richardson was the sole vice president at that time of the Hillside Coal & Iron Co., and was the official to whom Capt. May reported; that Mr. Richardson would probably know of the matter or at least would know who would have it in charge.

Q. That is what you told him?—A. In part. I further said to him, according to the best of my recollection, that if he desired I would introduce him to Mr. Richardson. The best of my recollection is that I volunteered that myself, and that it was not asked.

Q. Now, if you will allow me to ask you another question, Mr. Brownell: After you had at some considerable length explained to Judge Archbald the fact that you were not an executive officer, what did you do?—A. I offered to introduce him to Mr. Richardson if he so desired. He said that he would be glad for me to do so. I went with him into the office of Mr. Richardson.

Q. If you will allow me, did you introduce him to Mr. Richardson?—A. I introduced him to Mr. Richardson.

Q. What took place in your presence after you had introduced him to Mr. Richardson?—A. Very little; I left almost immediately afterwards. I did not remain during the conversation. I had a slight conversation—

Q. I think that answers the question.—A. I had a slight conversation with Mr. Richardson at the time I introduced the judge.

Q. I ask you to relate what took place while Judge Archbald, Mr. Richardson, and yourself were present after you had introduced him to Mr. Richardson?—A. To the best of my recollection I said to him, in substance, that Judge Archbald said that he had had, or that some one had had, negotiations with Capt. May in regard to some coal property or this coal property—I do not remember whether or not at the time I had a description of it—and that he desired to know who had the matter in charge and to obtain some definite answer. Mr. Richardson said that he recalled having had a conversation with Capt. May upon the subject and that he would talk with Judge Archbald. Thereupon I left, and I do not know at all of the conversation that occurred between them.

Q. And Mr. Richardson was the man who had charge of the Hillside Coal & Iron Co. matters and was the immediate superior to Capt. May in that company?—A. He was the sole vice president, his superior, and did have charge under the president.

Q. Oh, under the president?—A. Yes.

Q. Will you kindly give us, Mr. Brownell, the title of the two suits which you say were pending in the Commerce Court on or about August 4, 1911?—A. As nearly as I can recollect, without referring to memoranda, the title of one of the cases was "The Baltimore & Ohio Railroad Co. et al."—the "et al." meaning a number of other railroad companies—"against the Interstate Commerce Commission."

Q. Do you remember the number? Was the number 38? Does that suggest anything to you?—A. The one to which I now refer to identify it was the one commonly known as the Differential Fuel Coal rate case, and was not an appeal from a decree of the commission, as I now recall, and there were no intervening parties. In that way I may distinguish it from the other.

Q. What was the other?—A. The other was The Baltimore & Ohio Railroad Co. et al. against the Interstate Commerce Commission, and there had intervened, in addition to the railroad companies as petitioners, Arbuckle and Jamison as two partners under the name of the Jay Street Terminal and the Brooklyn Eastern District Terminal Co. There also intervened—and it appeared in the title in the Supreme Court and in the Commerce Court—one other party—

Q. Now, Mr. Brownell, those two cases—

Mr. WORTHINGTON. He has not finished describing the case.

Mr. Manager HOWLAND. Excuse me, I thought he had finished.

The WITNESS. You asked me for all the parties and I was trying to the best of my recollection to give them. There was simply one more intervenor, the Federal Sugar Co.

Q. You had immediate charge of these matters in the Commerce Court and argued the cases there?—A. There were, I think, six attorneys of record, but I bore the laboring oar there in that case and in the Supreme Court.

Q. There and in the Supreme Court, both?—A. Yes, sir; for the railroad company. Other counsel represented in argument the intervening parties.

Q. When was the argument submitted in the Baltimore & Ohio case?—A. The differential coal-rate case, which was argued by counsel for the Baltimore & Ohio Co., was argued in the Commerce Court in May, probably the 15th or 17th of May, upon the motion of the Government and the Interstate Commerce Commission to dismiss the complaint for want of equity and the motion on the part of the petitioners for a temporary injunction.

Q. Was that in May, 1911?—A. Yes, sir.

Q. The Federal Sugar Co. case was the other case, was it not?—A. Yes, sir.

Q. That is sometimes referred to in common parlance as the Lighterage case?—A. I have heard it in these proceedings referred to as such, but whenever so referred to it is the same that I refer to as the Federal Sugar Refining Co. case.

Q. Have you, since you introduced Judge Archbald to Mr. Richardson and retired from the room, had any correspondence with Judge Archbald, or have you had any conferences or conversations with him?—A. No correspondence or communication, written or oral.

Mr. Manager HOWLAND. I think the counsel for the respondent may take the witness.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Can you tell, Mr. Brownell, when the case which Mr. HOWLAND referred to as the lighterage case was first taken into the Commerce Court—when the petition there was filed—and there could have been anything of that case to get on the trial list?—A. My recollection would be the 1st or shortly before May, 1911.

Q. At all events, there was no such case there on the 31st of March, 1911?—A. No, sir.

Q. Do you remember whether in the conversation you had with Judge Archbald, either when he was with you or when you and he were with Mr. Richardson, anything was said about Capt. May in reference to complaints against him, or the reverse?—A. I have no recollection of anything in the nature of a complaint against Capt. May, sir.

Q. Do you remember anything complimentary to him being said?—A. To the best of my recollection, in Mr. Richardson's office, a remark was made by Judge Archbald, or some reference to Capt. May, which was in the nature of a complimentary remark.

Q. Do you remember—A. I can not recall what it was.

Q. At any time when you were with Judge Archbald, when you were either in Mr. Richardson's office or your office or on the way there, can you remember whether there was any reference to Judge Archbald's position in the Commerce Court?—A. No, sir.

Q. Or to any cases that were pending or might be pending there?—A. I have not the slightest recollection of any.

Q. Did Judge Archbald ask anything of you except to tell him who was the man who had charge of the matter he was inquiring about?—A. That is all, sir.

Q. Had you heard this case, which we now speak of as the lighterage case, referred to by that name before you heard it was so called in these proceedings?—A. I do not recall having done so.

Q. It was not the common name of it?—A. Among counsel and those interested we have been accustomed to speak of it

as the Federal Sugar Refining Co. case. It has had some discussion under that title.

Q. So far as you know were there any papers in it which were backed "lighterage case" or in which the word "lighterage" was used in the title?—A. No, sir.

Q. Do you recall whether you saw that case on the trial list of the Commerce Court at any time?—A. I have no recollection of it. I am not at all clear, sir, that I have ever seen the trial list of the Commerce Court. I think that would be attended to by some of my office force.

Mr. WORTHINGTON. That is all, Mr. President.

Mr. Manager HOWLAND. That is all, Mr. President.

The PRESIDENT pro tempore. Is there any further question?

Mr. HITCHCOCK. Mr. President, I submit the question I send to the desk.

The PRESIDENT pro tempore. The Senator from Nebraska asks that a question be propounded to the witness. The Secretary will read it.

The Secretary read as follows:

Q. Did Judge Archbald, when he called at your office, represent himself as a partner in the proposed purchase of the coal property or as a friend or attorney for the purchaser?

A. No, sir; he did not represent himself in either of those specific characters. He stated, as I recall it, that he was interested in the clearing up of this property, and, to that end, in the acquisition of the interest or claim of the Hillside Co., concerning which negotiations, he stated, had been under way with Capt. May. The nature or extent of that interest on his part was not stated; I mean the nature or extent of the interest which he stated he had.

Mr. Manager HOWLAND. No further examination.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager CLAYTON. Mr. President, this witness may be discharged finally. We do not apprehend that we will have any occasion to recall him.

The PRESIDENT pro tempore. He is discharged. The managers will call the next witness.

Mr. Manager CLAYTON. Call Mr. W. L. Pryor.

The PRESIDENT pro tempore. The Sergeant at Arms will call Mr. Pryor.

TESTIMONY OF WILLIAM L. PRYOR.

William L. Pryor, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside?—A. Scranton, Pa.

Q. What is your occupation?—A. Manager of the Scranton Autopoise Co.

Q. How long have you resided in Scranton?—A. Twenty-six years.

Q. Are you acquainted with Judge Archbald?—A. I am.

Q. Are you acquainted with Mr. E. J. Williams?—A. I am, sir.

Q. How long have you been acquainted with Mr. Williams?—A. Probably not more than two years; two years or two and a half.

Q. Where were you, Mr. Pryor, and in what business were you engaged on or about the 5th day of September, 1911?—A. I was engaged as accountant for the Marian Coal Co. in preparing their case before the Interstate Commerce Commission.

Q. In preparing what?—A. In helping to prepare their case before the Interstate Commerce Commission.

Q. In what capacity? Were you an attorney?—A. No, sir; I was preparing the statistics.

Q. You were an accountant, then?—A. Yes, sir.

Q. You were working for them at that time?—A. Yes, sir.

Q. Did you see E. J. Williams on or about the 5th day of September?—A. I did. He was a daily visitor.

Q. I hand you exhibit No. 7, Mr. Pryor, which has been referred to in the evidence here as the silent party agreement, and I ask you if you have seen that before?—A. Yes; I have.

Q. When and where?—A. In the office of W. P. Boland; about the date, the fore part of September.

Q. Who was present at that time?—A. Mr. E. J. Williams, Mr. W. P. Boland, and the stenographer, Miss Mary Boland, and myself.

Q. The instrument bears your name, does it not?—A. It does.

Q. Did you sign your name to it?—A. I did.

Q. As a witness?—A. I did.

Q. To the signature of Mr. Williams?—A. Yes, sir.

Q. Did you see Mr. Williams sign it?—A. I did.

Q. Were you there when the instrument was prepared?—A. I was in the room; yes, sir.

Q. Was Mr. Williams there?—A. He was.

Q. By whom was the instrument dictated?—A. It was prepared, I believe, jointly by Mr. E. J. Williams and Mr. W. P. Boland; dictated to the stenographer.

Q. You mean each one dictated parts of it?—A. Yes, sir.

Q. After it was written out by the stenographer what was done with it?—A. A copy of it was handed to E. J. Williams and it was read to him.

Q. Who read it to him?—A. I believe it was Mr. W. P. Boland.

Q. He read it over in the presence and hearing of all of you?—A. Yes.

Q. And then what was done with it?—A. Mr. Williams sat down at a table and signed two copies, if not three.

Q. Mr. Pryor, are you sure he signed more than one copy?—A. I am almost sure that I signed two copies, and therefore it would signify that he signed two.

Q. How many copies were taken?—A. That I am not prepared to state.

Q. They were carbon copies, taken on the typewriter?—A. The original and a carbon; yes, sir.

Q. What did Mr. Williams do with the copies he took?—A. That I could not say.

Q. Did he leave them there?—A. That I could not answer.

Q. Do you know whether he took them away with him or not?—A. No, sir.

Q. I hand you respondent's Exhibits A and B, Mr. Pryor, and ask you to examine them, which you can do in connection with the original exhibit, and tell me whether they are the copies—the carbon copies—that were kept by Mr. Williams?—A. (Examining.) That I could not answer.

Q. Mr. Pryor, what was said, if anything, there in the presence of Mr. Williams and in his hearing by anyone in regard to who was the silent party referred to in this instrument that Mr. Williams signed?—A. I believe—

Mr. WORTHINGTON. One moment.

Mr. Manager NORRIS. Just wait, Mr. Pryor.

The PRESIDENT pro tempore. One moment.

Mr. WORTHINGTON. Mr. President, I believe you held, and the Senate has held, that this paper itself is competent evidence, notwithstanding that it was not shown, and there is not any evidence tending to show, that Judge Archbald had anything to do with it.

The PRESIDENT pro tempore. Counsel will please speak louder.

Mr. WORTHINGTON. I say, as I recollect, it was held by the Senate, by the vote, on the first day of our taking testimony here, that this silent-party paper was admissible in evidence, or at least should be introduced here, although no evidence was offered tending to show Judge Archbald knew of it or authorized it. But I do not understand that that ruling went so far as to hold that the parties who may have made statements about Judge Archbald would be competent witnesses against him, or that any statement made against Judge Archbald by Williams or Pryor or perhaps other persons who were in Boland's office would be competent and proper evidence in this matter.

Mr. Manager NORRIS. Mr. President, you will remember what the testimony of Mr. Williams was in regard to this silent party, and a great deal of time was taken up trying to have him admit certain testimony that he had given before the Judiciary Committee. If this witness heard him state there or in his presence who the silent party was, it seems to me it is perfectly proper and competent for the witness to tell it as explaining not only the instrument itself but Williams's testimony, wherein we claim he contradicted himself in his testimony here.

The PRESIDENT pro tempore. The Chair will inquire whether the testimony before the Judiciary Committee was in conflict with what the witness testified to here on that subject?

Mr. Manager NORRIS. I think the testimony there—at least, parts of it—were in conflict with each other, and it was certainly in conflict with the testimony here. I think the Chair will remember that in the examination conducted by Mr. WEBB, Mr. WEBB called the witness's attention to some of the testimony on that subject which he had given before the Judiciary Committee. At least, it is in dispute, as I understand it, as to just what was intended by the reference here, and we have a right to show, I think, by those who drew the instrument and by the man who signed it, what was intended when a term was used that on its face shows that some explanation is necessary.

The instrument itself says that the silent party is known to certain persons, who are named, and, as I remember it, I think this witness is one of them. I now have the paper before me.

The language is: "and the silent party whose name for the present is only known to Edward J. Williams, William P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Coke Co." It therefore seems that this witness is not one of the names mentioned; but if this witness was present and heard the man Williams make the statement as to who the silent party was, or heard some one else make it, in the conversation and in the hearing of Williams, then it is proper for us to show who the silent party was.

Mr. WORTHINGTON. Mr. President, I have only to suggest this illustration: If a man is on trial for murder and a paper is produced which was prepared in an office where he was not present, and at a meeting of which he had no knowledge, and a paper was drawn up reciting that he and somebody else had committed that murder, would that paper, or anything with reference to the execution of that paper, be evidence against him to show that he did commit the murder?

It is true that we admit in the answer and admit here that Judge Archbald agreed with Mr. Williams that they would together undertake to buy and to sell this coal dump; but he is charged here with the crime of attempting to use his influence as a judge of the Commerce Court with the Erie Railroad people to get them to sell that dump to him on favorable terms; and as a part of the evidence against him it is said that he agreed that his name should be concealed in that transaction because he knew he was doing wrong. Here were some other people concealing his name and preparing a paper which was concealing it, and the talk among them as to who he was and why he was concealing his name is sought to be introduced in a court of justice as affecting him.

I do not see how I can say anything more. It is against all rules of evidence under which I have been accustomed to practice, and it seems to me there is no rule in justice or equity why it should be introduced.

Mr. Manager NORRIS. Mr. President, I want to make a suggestion I omitted to make, if the President will allow me. It is at least the theory of the managers on the part of the House, and for the purpose of passing on the evidence I think it will be conceded that the Chair will take the theory, that Mr. Williams and Judge Archbald were partners, and I think that ought to be called to the attention of the Chair before the Chair passes upon it, because what he said there or did there in carrying out the purposes of whatever plans they had would certainly be proper from this witness.

Mr. WORTHINGTON. I suppose, Mr. President, in the case I have supposed if the paper had been prepared and recited the manner in which the murder was to be committed, that would make it competent against the man on trial charged with the crime?

Mr. Manager NORRIS. Oh, no; that is not a similar case.

The PRESIDENT pro tempore. The paper has been admitted as a legitimate piece of evidence. The Chair is of the opinion that everything that is necessary for a proper explanation of the meaning of that paper is competent. What effect it would have upon the respondent is a question of law that would afterwards be determined. But as to the question of the admissibility of the evidence, the Chair is of the opinion that whenever there is an ambiguity in an instrument, which itself is admitted in evidence, it is competent to show what those who made the paper intended. How far that would be binding upon the respondent is an altogether different question, and the Chair does not mean in the ruling to rule on that point. That would be a question for the Senate to determine when it comes to consider the weight of the evidence. As to whether or not a partnership has been proven, and whether the respondent should be bound by statements made by one who is alleged to be his partner, is a question to be determined by the Senate sitting as a court.

Upon the naked question as to whether or not the paper which is proven to have been executed and which the Senate has decided to be proper evidence shall have any ambiguous term explained by showing what the parties to it said it meant, the Chair is not in any doubt whatever.

Mr. Manager NORRIS. I would like to have the stenographer read the question to the witness.

The Reporter read as follows:

Q. Mr. Pryor, what was said, if anything, there in the presence of Mr. Williams and in his hearing by anyone in regard to who was the silent party referred to in this instrument that Mr. Williams signed?

A. The mention of Judge Archbald's name was brought up by Mr. Williams, as being interested in the transaction, and was to be known as the silent party.

Mr. Manager NORRIS. I think that is all. You may cross-examine.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Mr. WORTHINGTON. We have no questions to ask.

The PRESIDENT pro tempore. The witness may retire.

Mr. WORTHINGTON. I should like to have the witness reminded that he is under subpoena by us on another matter, and that he is not to consider himself discharged.

The PRESIDENT pro tempore. The witness will not consider himself discharged.

Mr. Manager CLAYTON. We do not anticipate that we will need him any more, so that hereafter if he desires to get away he may apply to counsel for the respondent.

The PRESIDENT pro tempore. Call the next witness.

Mr. Manager CLAYTON. Please have Charles F. Conn called as a witness. Mr. DAVIS will conduct the examination of this witness.

TESTIMONY OF CHARLES F. CONN.

Charles F. Conn, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live?—A. Scranton, Pa.

Q. What is your occupation?—A. Vice president and general manager of the Lackawanna & Wyoming Valley Railroad Co.

Q. What is the character of that railroad?—A. It is an electric railroad operating between Scranton and Wilkes-Barre.

Q. Does it sustain any business relationship, by traffic agreement or otherwise, with the Erie Railroad?—A. It does.

Q. From what source has your railroad company been purchasing its fuel supply?—A. From the Erie Co. or some of its subsidiary companies.

Q. Including the Hillside Coal & Iron Co.?—A. I can not say which of the companies have rendered the bills.

Q. Do you know Judge Robert W. Archbald?—A. I do.

Q. How long have you known him?—A. Four or five years.

Q. Do you know Edward J. Williams?—A. I do.

Q. How long have you known him?—A. I think it was in September, 1911, when I first met him.

Q. Have you, in your capacity as manager of the Lackawanna & Wyoming Valley Railroad, had any transactions with those gentlemen, or either of them, for the purchase of any coal property?—A. Yes, sir; I have.

Q. When did you have such transaction; and if with both, when and where?—A. My recollection is that the transaction began in September of 1911.

Q. Who of those first introduced the transaction to your notice?—A. Judge Archbald.

Q. When and where?—A. On the street in Scranton.

Q. What conversation had you with him at that time?—A. He stated that he would like to present a culm bank for my consideration.

Q. Was that the entire conversation?—A. That is the substance of it.

Q. To what culm bank did he refer?—A. My recollection is that he did not refer to any specific bank by name.

Q. Did he tell you by or through whom he proposed to present it?—A. I think not.

Q. What was your next connection with the transaction?—A. I received a letter. Mr. Williams brought a letter to my office introducing him and referring to the culm bank.

Q. From whom was that letter?—A. From Judge Archbald.

Q. Please look at the paper [presenting letter] I hand you, which is identified as Exhibit No. 10, and state whether that is or is not the letter to which you referred.—A. (After examining letter.) That is the letter.

Mr. Manager DAVIS. The letter is in evidence, but in order that the Senate may understand the document I will ask the Secretary to read it.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read as follows:

[U. S. S. Exhibit 10.]

(R. W. Archbald, judge. United States Commerce Court, Washington.)
SCRANTON, PA., September 20, 1911.

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it if there is anything which you want to know.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) That letter was brought to you by Mr. Williams in person, was it?—A. It was.

Q. On the date given in the letter—the 20th of September?—A. I could not say as to that.

Q. On or about that day?—A. About that time.

Q. Did you have any conversation with Mr. Williams on the subject at that time?—A. Yes, sir.

Q. State the substance of your conversation.—A. I asked him as to the location of the dump and the approximate amount of material in it. He gave me that information, and I stated I would investigate it and inform Judge Archbald of my conclusion.

Q. Did you investigate it?—A. I did; yes, sir.

Q. When?—A. Within a week or 10 days. I went to the dump and looked it over. I had with me the engineer of our power plant.

Mr. THORNTON. Mr. President, I request that the witness be instructed to speak just a little louder.

The PRESIDENT pro tempore. The witness will please raise his voice.

Q. (Mr. Manager DAVIS.) Was anyone else there with you?—A. I think on that trip I met Mr. Williams and Mr. Pryor at the bank.

Q. In addition to your personal inspection of the bank at that time did you have it inspected by any other person in your behalf?—A. Yes, sir.

Q. By whom?—A. By Mr. Rittenhouse.

Q. Who is Mr. Rittenhouse?—A. Civil and mining engineer in Scranton.

Q. Did you employ him for the purpose of making an inspection of the bank in your interest?—A. Yes, sir.

Q. Did he make a report on it to you?—A. He did.

Q. Verbally or in writing?—A. He gave me a written report of the quantity of material.

Q. After your receipt of the report from Mr. Rittenhouse, when did you next see either Judge Archbald or Mr. Williams?—A. At Judge Archbald's office a short time after that. Mr. Williams was present at that time.

Q. How did you come to go to Judge Archbald's office?—A. To see him in connection with this matter.

Q. Will you detail the conversation you then had with either or both those gentlemen?—A. I stated to them that I did not care to purchase the bank for a lump sum, but that if they cared to sell it on a royalty basis I would be glad to consider it further.

Q. Had they made a proposition of a lump-sum price prior to that meeting?—A. I think so—\$25,000.

Q. When was that proposition made to you?—A. My impression is that that was the price named by Mr. Williams when he presented this letter.

Q. And after your conversation at Judge Archbald's office, at which you refused to consider it at a lump sum and desired a royalty, did you receive any further proposition from them?—A. Yes; I had a letter from Judge Archbald making a proposition.

Q. Look at the paper [presenting paper] which I hand you, which is identified as Exhibit No. 3, and state whether that is the letter to which you refer?—A. (After examining paper.) That is the letter.

Mr. JOHNSTON of Alabama. Mr. President, I should like to ask one question of the witness.

The PRESIDENT pro tempore. The Senator from Alabama desires that the following question be propounded to the witness, and the Secretary will propound it to the witness.

The Secretary read as follows:

Did Judge Archbald in any interview with you tell you that he had any personal interest in the dump?

The WITNESS. I do not know that he did in those words, but I gained the impression from my conversation with him and the letters which I received from him that he had an interest in the dump.

Q. (By Mr. Manager DAVIS.) Did he at the conference you had at his office, to which you have just referred, tell you what the condition of the title was and how much of title he and Mr. Williams controlled?—A. I think no reference was made to the title.

Mr. Manager DAVIS. We have identified a letter from Judge Archbald, under date of November 6, 1911. It is already in evidence, but I shall ask that the Secretary read it at this point.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 3.]

(R. W. Archbald, Judge United States Commerce Court, Washington.)

C. F. CONN, Esq.

SCRANTON, PA., November 6, 1911.

DEAR SIR: On behalf of Mr. Edward J. Williams and myself I offer you the so-called Katydid culm dump, in the vicinity of Moosic, on a royalty basis at a flat rate of 30 cents a ton for all sizes, with the

understanding that a minimum of 20,000 tons a year shall be taken or paid for, you to pay us \$12,000 on account as advance royalties and to be entitled to take 40,000 tons without further payment therefor. In washing or screening the coal, if any of the prepared sizes are found there will be an additional charge of 5 cents a ton on such prepared sizes, payable to the Hillside Coal & Iron Co. It will be satisfactory to us if you desire to remove the material from time to time in quantity without screening or washing it on the ground, with the idea of screening or washing it elsewhere, provided we can be sufficiently protected and informed with respect to the actual number of tons taken, for which you would be accountable. In the execution of a formal agreement there may be other minor details in order to make a complete working contract, but the above will give you the substance of what we are ready to do.

Trusting that you will find these terms acceptable, I remain,

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) Did you reply to that letter, Mr. Conn?—A. I did.

Q. Have you a copy of your reply in your own possession?—A. My copy was left with the committee.

Q. Look at the paper [presenting paper] I hand you and state whether this is the office copy of your reply.—A. (After examining paper.) That is my reply.

Q. At the top of the letter there is a pencil notation, "closed, as below, November 29, '11." In whose handwriting is that notation?—A. It is mine.

Mr. Manager DAVIS. Will you hand that to the Secretary that it may be read? We offer it in evidence.

The PRESIDENT pro tempore. It will be read.

The SECRETARY. Notation in pencil at top:

Closed, as below, November 29, '11.

The letter is as follows:

[U. S. S. Exhibit 21.]

NOVEMBER 29, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

MY DEAR JUDGE: In reference to your proposition for the purchase of the Katydid bank at Moosic, I beg to say that I have had figures made of the investment necessary for us to prepare this coal and get it to our road, and I find that the cost per ton will be somewhat larger than I anticipated. I still feel, however, that it may be possible for us to handle this proposition on a basis which will enable us to reduce our cost of coal a little and have submitted the matter to our people for their advice.

I believe that I can close the matter with you on the basis of a royalty of 27½ cents per gross ton for all coal shipped, with a minimum of 20,000 tons per year, and if you care to accept this proposition, will arrange to pay \$10,000 as advanced royalties on the signing of the papers.

As it is our plan to erect a washery adjacent to our tracks it will be necessary for us to purchase some land for this purpose and for the disposition of the waste material, and I should wish to have it understood that the waste material belonged to this company, so that it might be used for filling, etc., if desirable to do so. I have made no effort thus far to obtain any land, so would be glad to have no mention made of this transaction until this has been accomplished.

If my proposition is satisfactory, the matter can be closed up at once.

Yours, truly,

V. P. & G. M.

Q. (By Mr. Manager DAVIS.) You signed the original of that and transmitted it to Judge Archbald in due course of mail, did you?—A. I did.

Q. What did the pencil notation, "closed, as below, November 29, '11," mean?—A. Judge Archbald came to my office on that day after his receipt of the letter and accepted the proposition. I made that notation and considered it was closed.

Q. What conversation occurred between yourself and him at that time?—A. I only recall that I stated this was subject to the approval of our attorneys as to title, and that I would ask them at once to investigate it.

Q. Was there any discussion with reference to the formation of the contract or the reduction of the agreement to writing?—A. Yes, sir. I think Judge Archbald asked if we should exchange letters confirming this arrangement and I said that it was immaterial.

Q. When did you next see Judge Archbald with reference to the matter?—A. I met him in our attorney's office a few days after that, within three or four days I should say.

Q. What occurred at that conference?—A. Our attorneys had advised that the title was not satisfactory, and that statement was made in Judge Archbald's presence. I think that is the substance of the conversation.

Q. Who were your attorneys and where was their office?—A. Welles & Torrey, in the Connell Building, Scranton.

Q. What was Judge Archbald's contention with reference to the title? What response, if any, did he make to their criticism, in other words?—A. My recollection is that he said he would look up the question raised by Wells and Torrey. It was of the Everhart interest.

Q. Was anything said as to some form of indemnity to you as the purchaser against their claim?—A. I think something of that kind was brought up at that interview, the question of Judge Archbald giving us a bond to protect us against any other claimant.

Q. Was such a bond given?—A. No, sir.

Q. That interview took place within what length of time after your letter of November 29, 1911?—A. My recollection is that it was within a week.

Q. Had you any further connection with the transaction?—A. I received a letter from Mr. Williams subsequently.

Q. Do you remember the date of that subsequent letter?—A. In March, I believe.

Q. Look at the paper [presenting paper] I had you, identified as Exhibit No. 4, bearing date the 13th of March, 1912, and signed E. J. Williams. State if that is the letter to which you refer.—A. (After examining paper.) That is the letter.

Mr. Manager DAVIS. The Secretary will read the letter. It is already in evidence.

The PRESIDENT pro tempore. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 4.]

SCRANTON, PA., March 13, 1912.

CHARLES F. CONN, Esq., Scranton, Pa.

DEAR SIR: Regarding the culm bank located at Moosic, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous of your having the bank. He believes that the title to this property is not a complicated one.

You as a business man understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns, take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal; and if not, the Everhart heirs et al. would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or retain it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours,

E. J. WILLIAMS.

Q. (By Mr. Manager DAVIS.) Did you receive that letter by mail or was it delivered in person, Mr. Conn?—A. I could not say.

Q. Did you see either Mr. Williams or Judge Archbald after its receipt?—A. Yes, sir.

Q. When did you next see either of those gentlemen?—A. I do not recall the date. Judge Archbald came to my office a short time after that letter came to me, and I showed him the letter.

Q. He read the letter, did he?—A. Yes, sir.

Q. What was the purpose of his visit to your office at that time?—A. To discontinue the negotiations with us for the sale of the bank.

Q. What was said? What conversation took place between yourself and him?—A. In substance, that he was unable to clear up the Everhart matter, and that the proposition made to us was withdrawn.

Q. Was he still desirous that you should purchase the bank at that time?—A. I do not know as to that.

Q. What did you gather from his conversation?—A. I do not think there was any conversation on that end of the subject. The negotiations closed at that visit.

Q. You yourself told him at that time that you could not take it with the title in that condition?—A. Yes, sir.

Q. And he told you, in substance, that he could not meet the demands which had been made by your attorneys?—A. That is my recollection.

Q. And that ended the negotiations, so far as you were concerned?—A. Yes, sir.

Q. Had you invited him to your office at that time?—A. No, sir.

Q. Your last previous interview with him had been in the month of November, had it not, immediately after the writing of your last letter at the office of your attorney?—A. I should not want to say that I had not seen him in the interim, but I do not recall any meeting with him.

Q. You had not had any discussion of this proposal with him in the meantime, had you?—A. Not so far as I recall.

Q. You had not invited him to your office on the 29th of March?—A. No, sir.

Q. On the 13th of March, I believe it was. He came there of his own volition?—A. Yes, sir.

Q. And again brought up with you the question of this transaction?

Mr. WORTHINGTON. The manager assumes that the witness had said that he saw Judge Archbald on the 13th of March. He said it was soon afterwards.

Mr. Manager DAVIS. I admit the correction. The letter of Williams is dated the 13th.

Q. (By Mr. Manager DAVIS.) How long was it after the receipt of the Williams letter of the 13th of March that Judge Archbald came to your office?—A. I can not say.

Q. Had he any other business with you at that time?—A. I think not.

Q. The only matter which you discussed was this transaction?—A. So far as I recollect.

Q. Was any written form of contract submitted to you at any time during the negotiations?—A. There was.

Q. By whom?—A. By Judge Archbald.

Q. Do you have that paper?—A. No, sir.

Q. Who has it?—A. I think Col. Worthington has it.

Mr. WORTHINGTON. I will say to the manager that I have it in my pocket, and it is at his disposal if he wishes to see it or use it.

Mr. Manager DAVIS. I should like to see it, if you please.

Q. (By Mr. Manager DAVIS.) When did you deliver it to Col. Worthington?—A. I did not deliver it to him.

Q. From whom did you receive it?—A. From Judge Archbald.

Q. And when?—A. Soon after the 29th of November.

Q. And where was it delivered to you?—A. I think by mail.

Q. What did you do with it?—A. I made some notations on it and sent it to our attorneys, I think, to the best of my recollection.

Q. Did you ever redeliver it to Judge Archbald?—A. I do not know.

Q. Did you ever receive it back again from your attorneys?—A. I can not say.

Q. Do you know where that paper has been since you delivered it to your attorneys?—A. I do not know that.

Q. Is it or is it not a fact that at your last interview with Judge Archbald, had in the month of March after the receipt of the Williams letter, he asked you to redeliver that contract to him?—A. I do not remember that.

Q. Have you no recollection at all on that subject?—A. None at all.

Q. You say that he came there that evening to close the negotiations?—A. Yes, sir.

Q. Or to withdraw the negotiations?—A. Yes, sir.

Q. Do you not remember that at that time he asked you for the redelivery of this draft?—A. I do not remember that.

Q. Do you remember that he did not?—A. No, sir; I could not say that.

Q. Can you say whether this paper was or was not at that time in your possession or in the possession of your counsel?—A. I can not.

Q. Do I understand you to say that you have no recollection whatever of this paper after you delivered it to your counsel in December?—A. None whatever.

Q. Can you account in any way for its possession from that time until this?—A. I can not.

Q. Did you ever instruct your counsel to redeliver it to Judge Archbald or to any of his representatives?—A. I did not.

Q. You do not assume that they would have done so without your consent, do you?—A. I should not expect them to.

Q. So far as you know, they did not deliver it to Judge Archbald?—A. So far as I know.

Q. Are you willing to state positively that you did not deliver it to him?—A. I am not.

Q. Then it is possible, so far as the present state of your recollection is concerned, that Judge Archbald did ask you for this paper at your final interview with him in March, and you did redeliver it to him at that time?—A. It is possible.

Q. Will you look at the paper which was just handed to me by counsel and see whether that is the document to which you refer?

The WITNESS (examining paper). That is the one.

Mr. Manager DAVIS. Mr. President, I should like to offer that document in evidence in connection with the testimony of Mr. Conn.

The PRESIDENT pro tempore. Does the manager desire that it be now read?

Mr. Manager DAVIS. Not at this instant.

Mr. WORTHINGTON. I might ask, before doing that, that the handwriting be identified?

Mr. Manager DAVIS. I was just about to do that.

Mr. WORTHINGTON. There are some interlineations in handwriting.

Q. (By Mr. Manager DAVIS.) On that paper there are certain pencil notations and interlineations. Do you know by whom those were made, Mr. Conn?—A. Yes, sir; they were made by me.

Q. When?—A. I presume shortly after this contract was placed in my hands.

Q. Before or after its submission to your counsel?—A. Before.

Q. Are there any notations on there in any handwriting other than your own?—A. It has just been marked "Exhibit"—

Q. Leaving that out, of course.—A. No, sir; they are all mine.

Mr. Manager DAVIS. Now, Mr. President, I shall ask to have the document read without the notations, unless counsel prefers to have them read also.

Mr. WORTHINGTON. They can be read later.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper, marked "Exhibit 22," as follows:

[U. S. S. Exhibit 22.]

This agreement made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, Pa., of the one part, and the Erie & Wyoming Valley Railroad Co., a corporation of the State of Pennsylvania, of the other part, witnesseth:

Whereas the said parties of the first part are the owners of a certain culm dump or bank of waste coal and refuse, produced in the mining operations of the late firm of Robertson & Law, at the so-called Katydid mines and colliery, which dump or bank is located in the vicinity of Moosic, Pa., and known and called the "Katydid" culm dump; and, whereas, the party of the second part is desirous of purchasing the same;

Now, this agreement witnesseth that for and in consideration of the terms and conditions hereinafter mentioned the parties of the first part do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, all of the said culm dump, with the right to take, remove, and dispose of the same, subject always as follows, that is to say:

1. It is the purpose of the said party of the second part, and it hereby undertakes and agrees, at some convenient place along the line of its railroad to erect and construct a so-called washery or building with suitable screens, rolls, chutes, and other appliances for the handling, screening, sorting, cleaning, and preparing for use the coal and material obtained from the said culm dump, with or without the use of water; and the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank; all of which material, excepting rock, shall be taken and be passed through the said washery, and afterwards weighed at the said washery in the cars when ready for use, or, in default thereof, shall be accounted and paid for according to the gross ton of material removed from the said dump.

2. For each ton of coal of 2,240 pounds obtained from the said dump as aforesaid, which will pass over a screen of — inches square mesh, being of the size commonly known as rice, barley, or bird's-eye or larger, the said party of the second part shall pay at the rate or royalty of 27½ cents a ton; all the material which passes through said screen being regarded as dirt or waste, for which no payment is to be required;

Provided however, that in the screening, sorting, cleaning, washing, or preparing the said material it shall not be broken down or crushed by the said party of the second part, so as purposely to make any such dirt or waste; and

Provided further, that any such waste material that is used or sold by the said party of the second part for steam or fuel purposes shall be paid at the same rate as though of the size aforesaid.

3. The said party of the second part shall render monthly statements of the number of tons passed through, or cleaned and prepared at the said washery, which statements, in duplicate, shall be mailed to the said parties of the first part, severally, on or before the 10th day of each calendar month for the month then next preceding; and on the 20th day of each month shall make payment therefor, one-half to each of the said first parties, which the said parties of the first part shall severally receipt for by signing and returning proper vouchers therefor.

4. The said party of the second part agrees to pay at the rate per ton aforesaid for at least 20,000 tons per annum, in equal monthly installments, whether that quantity shall have been removed and obtained from said dump or bank and washed and prepared or not, until all the said material other than rock composing the said dump shall have been removed and disposed of, or all the coal to be derived therefrom shall have been paid for. When royalties have been paid in advance, and, in the opinion of the party of the second part, payment has been made at the rate aforesaid for all of the coal capable of being obtained from said dump, if there is any dispute between the parties hereto with regard to the same, the matter shall be submitted to three arbitrators; one of whom shall be chosen by the parties of the first part, one by the party of the second part, and the two arbitrators so chosen shall agree on the third arbitrator, and the decision of any two of them shall be binding and conclusive. In case of the neglect or refusal of either party to appoint an arbitrator, the appointment may be made at the instance of the other party by the Court of Common Pleas of Lackawanna County.

5. Where, in the screening, sorting, cleaning, and preparing the said material, any coal above the size of pea coal is obtained the party of the second part, in addition to the royalty of 27½ cents per ton to be paid to the parties of the first part, shall pay to the Hillside Coal & Iron Co. on account of the owners of lot No. "46," from which the said coal was originally mined, the sum of 5 cents per gross ton, in accordance with the terms on which the said culm dump is sold to the parties of the first part by the said Hillside Coal & Iron Co.

6. The party of the second part shall pay to the parties of the first part, on the execution and delivery of this agreement, the sum of \$10,000 as advance royalties, for which the party of the second part without further payment shall be entitled to such number of tons of coal, at the rate of 27½ cents a ton, as shall be the equivalent thereof.

7. In case of the failure of the party of the second part for 30 days to make the payments herein provided for, or to otherwise for a like period comply with any of the terms of this agreement, the parties of the first part may forfeit this agreement on 30 days' notice in writing of their intention so to do.

8. This agreement shall take effect as of December 1, 1911, from which date the minimum herein provided for shall begin to run.

9. When this agreement shall have been fully complied with by the party of the second part the parties of the first part, at its request, shall execute an acknowledgment, releasing and discharging the said party of the second part from any further obligation thereon.

10. The terms and conditions of this agreement shall be binding upon and operate in favor of the executors, administrators, and assigns of the parties of the first part and of the successors and assigns of the party of the second part as though in each instance severally and expressly mentioned.

In witness whereof the parties of the first part have hereunto set their hands and seals, and the party of the second part has hereunto affixed its corporate seal, attested by the signature of its president and secretary on the day and year first above written.

Mr. GALLINGER. Mr. President, I desire to make an inquiry. The Senate has some important business to transact, and I wish to ask the managers and the counsel for the respondent if it would be agreeable to have the court adjourn at the present time, shortening the session a few minutes for the day.

Mr. Manager CLAYTON. Mr. President, on behalf of the managers, I may say that the suggestion is entirely agreeable.

Mr. WORTHINGTON. Likewise to us, Mr. President.

Mr. THORNTON. Mr. President, before adjournment, I desire to have a question propounded to the witness.

The PRESIDENT pro tempore. The Senator from Louisiana desires to have a question propounded to the witness. The question will be read by the Secretary.

The Secretary read as follows:

Q. Why did you say in the examination that you thought Col. Worthington had the document?

Mr. CULBERSON. Mr. President, may I ask that that question be read again. My attention was diverted.

The Secretary again read the question.

The WITNESS. I knew that it was in his possession.

Q. (By Mr. Manager DAVIS.) How did you come by that knowledge?—A. I went to his office when I first came to Washington and asked to see it.

Q. How did you know that you would find it at his office?—A. It was sent to my office in Scranton in my absence so that I might see it.

Q. Who sent it to your office in Scranton?—A. It came from Welles & Torrey.

Q. Who are Welles & Torrey?—A. Attorneys for my railroad.

Q. When did they send it to your office that you might see it?—A. One day last week.

Q. How did it get from your custody to Mr. Worthington?—A. It was not left at my office. It was sent there in my absence, and the messenger took it away with him.

Q. What did the messenger do with it?—A. That I can not say.

Q. Had you made a request that you might see it?—A. I had.

Q. Of whom had you made that request?—A. I think I asked Judge Archbald if I might see it.

Q. Judge Archbald had it, then, in his custody?—A. I so understood it.

Q. And you do not know even now where he got it?—A. Not of my own knowledge.

Q. What is your best information on that subject?—A. I do not think I understand your question.

Mr. Manager CLAYTON. Mr. President, we shall desire to continue the examination of the witness in the morning.

Mr. GALLINGER. I move that the Senate sitting as a Court of Impeachment adjourn.

Mr. SMITH of Georgia. Is not the hour for ending the session of the court fixed by order of the Senate?

The PRESIDENT pro tempore. It is, and it can be changed only by unanimous consent unless there is an order formally passed by a majority of the Senate.

Mr. SMITH of Georgia. Unless the managers on the part of the House or counsel for the respondent desire an adjournment at this time, I would prefer to go on.

Mr. Manager CLAYTON. To relieve the situation of any embarrassment, if I may I move that the Senate sitting as a Court of Impeachment do now adjourn until to-morrow.

Mr. CULBERSON. Can that motion be made by the managers or counsel?

The PRESIDENT pro tempore. The Chair does not think it can go further than a suggestion from the managers or counsel.

Mr. Manager CLAYTON. Then I modify it and suggest that course.

Senator GALLINGER. That is agreeable.

The PRESIDENT pro tempore. It will be a question whether the Senate will pass an order to that effect in view of the fact that there is objection. The Chair understood the Senator from Georgia to object. Is the Chair correct?

Mr. SMITH of Georgia. Yes. I think unless there is some reason why the court should adjourn at this time we should adhere to the order.

The PRESIDENT pro tempore. Does the Senator from New Hampshire desire to have an order passed to the effect that the Senate sitting as a Court of Impeachment shall now adjourn?

Mr. GALLINGER. Mr. President, I will not insist upon my motion at all if there is objection.

Mr. Manager CLAYTON. Counsel for the respondent has just suggested, and I agree with him in the suggestion, that both the managers and the respondent desire that the court take a recess at this time until to-morrow at the usual hour—an adjournment or a recess, whichever is the proper form.

The PRESIDENT pro tempore. Does the Senator from Georgia still object? [After a pause.] The Chair awaits the response of the Senator from Georgia.

Mr. SMITH of Georgia. I do not desire to be captious. I will withdraw my objection, but—

The PRESIDENT pro tempore. It was impossible for the Chair to hear the latter part of what the Senator from Georgia said.

Mr. SMITH of Georgia. I will not insist upon my objection. The PRESIDENT pro tempore. Very well. It is moved that the Senate sitting as a Court of Impeachment do now adjourn. Unless there be objection it will be so ordered. The Chair hears none, and the Senate sitting as a Court of Impeachment stands adjourned until the usual hour to-morrow.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

PROPOSED EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. I suggest the absence of a quorum. The PRESIDENT pro tempore. The Senator from Georgia makes the point that there is no quorum present. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Gallinger	Martine, N. J.	Smith, Ga.
Bristow	Gore	Myers	Smith, S. C.
Bryan	Hitchcock	Overman	Smoot
Crane	Johnson, Me.	Page	Stephenson
Culberson	Johnston, Ala.	Penrose	Stone
Curtis	Kenyon	Perky	Swanson
Fletcher	Lodge	Pomerene	Thornton
Foster	McCumber	Root	Townsend
	Martin, Va.	Shively	Warren

The PRESIDENT pro tempore. On the call of the roll 36 Senators have responded to their names. A quorum of the Senate is not present.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 7, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 6, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We approach Thee, Almighty God, our heavenly Father, in prayer, that we may renew our spiritual life and thus be enabled to resist evil and strengthened to do the right as the duties of life unfold themselves to us moment by moment. Hear us and thus bless us, that Thy kingdom may come in all its fullness and strength and possess our hearts as it possessed the heart of the Master. And blessing and honor and praise be Thine for ever. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House bill 26680.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, which the Clerk will report by title.

The title of the bill was read.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Wherever the words "during the session" occur in the foregoing paragraphs they shall be construed to mean the 211 days from December 1, 1913, to June 30, 1914, both inclusive.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 19, line 23, strike out the word "eleven" and insert "twelve."

Mr. JOHNSON of South Carolina. The only purpose of the amendment is to correct the total number of days.

Mr. FOSTER. Mr. Chairman, I notice here that this provides for the session from December 1, 1913, until June 30, 1914, both inclusive. I got the impression somehow that in this short session the appropriation ended March 31.

Mr. JOHNSON of South Carolina. We are now making appropriations for the fiscal year beginning July 1, 1913, and ending June 30, 1914.

Mr. FOSTER. I understand.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. JOHNSON].

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Copyright Office, under the direction of the Librarian of Congress: Register of copyrights, \$4,000; assistant register of copyrights, \$3,000; clerks—4 at \$2,000 each, 3 at \$1,800 each, 7 at \$1,600 each, 1 at \$1,500, 8 at \$1,400 each, 10 at \$1,200 each, 10 at \$1,000 each, 18 at \$900 each, 2 at \$800 each, 10 at \$720 each, 4 at \$600 each, 2 at \$480 each; 4 junior messengers, at \$360 each. Arrears, special service: Three clerks, at \$1,200 each; porter, \$720; junior messenger, \$360; in all, \$100,780.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the last paragraph. On line 3, page 25, I see there are three clerks, at \$1,800 each, a creation of one new clerk. In line 4 four new clerks are provided for by the bill, at \$2,000, a creation of one new clerk. I desire to ask the chairman of the committee what cause there is for these two additional clerks.

Mr. JOHNSON of South Carolina. Mr. Chairman, the Copyright Office has work devolved upon it by law. The work increases year by year. During the last fiscal year the receipts of the Copyright Office aggregated \$116,000. The total amount paid for the services of those employed in the Copyright Office was, in round figures, \$96,000, leaving a surplus of \$20,000.

Mr. FOWLER. Ninety-six thousand nine hundred and eighty dollars last year.

Mr. JOHNSON of South Carolina. In round numbers, I say, leaving a net surplus of \$20,000 over and above the operating expenses. The work of the Copyright Office is not now current and can not be kept current unless we increase the force. We therefore gave them two additional men. But the work that these men do will bring in more than enough to pay their salaries.

Mr. GILLET. Mr. Chairman, may I add a word?

Mr. JOHNSON of South Carolina. Certainly.

Mr. GILLET. This \$2,000 clerk is the head of a division, the index division, which is the largest division in the Copyright Office. The other heads of divisions are all getting \$2,000, whereas he is now getting but \$1,800, so that this is to put him, the head of really the largest division of all, on a par with the others in the bill.

Mr. JOHNSON of South Carolina. Mr. Chairman, I am requested to read from the hearings with respect to the copyright office:

Mr. PUTNAM. The total number of registrations was, roughly, 121,000, and the total fees received \$116,000; the expenditures for service and for stationery and sundries amounted to \$96,000, leaving the net margin of receipts about \$20,000. Now, the register, who is here, explains to me that these three additional positions are particularly to undertake certain indexing and cataloguing work that the law contemplates shall be done, but which it is impossible for them to do without neglecting the current work which must be kept up; and if the committee desires to go into the situation which requires that, or to have any details about the situation in the Copyright Office or its organization, the register is here at my suggestion, and of course he can answer with the experience of daily contact.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Distribution of card indexes: For service in connection with the distribution of card indexes and other publications of the Library, including not exceeding \$500 for freight charges, expressage, traveling expenses connected with such distribution, and the expenses of attendance at meetings when incurred on the written authority and direction of the Librarian of Congress, \$30,000.

Mr. MANN. Mr. Chairman, I reserve the point of order on that paragraph. I believe in the last session there was inserted in the District of Columbia appropriation bill a provision in reference to paying the expenses of attendance at meetings. I suppose the latter part of the paragraph which has just been read is designed to meet that former legislation and to authorize attendance upon meetings as stated in the paragraph. I do not know that there is any objection to that.

Mr. JOHNSON of South Carolina. That is the purpose of the language inserted. The librarian stated that there were many meetings of the librarians of the country, and this library undertakes to cooperate with all other libraries in this scientific work, and it is necessary for him to send experts to the national meetings of the librarians. He asks permission to do so, and he says the cost will not in any year exceed \$500, and it does not increase the appropriation in any sum whatever.

Mr. MANN. I do not know whether this item increases the appropriation, but the total is increased by \$6,500. Is this authorization in this item, which is under the head of "Distribution of card indexes," supposed to cover only traveling expenses in attendance upon meetings which relate to card indexes or any meetings to which the librarian may send delegates?

Mr. GILLET. I think it relates simply to card indexing. There is another appropriation for the general library work.

Mr. JOHNSON of South Carolina. It applies only to meetings that are held in relation to that one subject.

Mr. MANN. Then I should like to ask the gentleman if he has any information generally concerning the effect of the operation of that provision in the District bill, which I think was not very well understood in Congress when it went through either body. I do not believe anybody woke up to it much, unless it was the members of the committee who reported it, until after it had received the signature of the President.

Mr. JOHNSON of South Carolina. All the governmental departments are awake to it now.

Mr. MANN. Yes; and I notice that there are a number of places in this bill where it is proposed to allow the expenses of attendance upon meetings. Have the Committee on Appropriations changed their views upon this subject, they having reported the original provision in very drastic form, which forbade the payment of any expenses for attendance upon any meetings?

Mr. JOHNSON of South Carolina. We have inquired very particularly why it was necessary to send anybody to these meetings, and we have ascertained that no part of the money was to be paid for annual dues or initiation fees in joining any societies; and only in the cases where it was made to appear to the committee that it was necessary for the Government to send its experts have we permitted this language to go into the bill, and in every case we have ascertained about how much money would be used for that purpose.

Mr. MANN. I am frank to say that I doubt the advisability of the provision which went into the District bill last year, and therefore I withdraw the point of order on this item.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CIVIL SERVICE COMMISSION.

For commissioner, acting as president of the commission, \$4,500; 2 commissioners, at \$4,000 each; chief examiner, \$3,000; secretary, \$2,500; assistant chief examiner, \$2,250; chiefs of division—3 at \$2,000 each; examiners—1, \$2,400, 3 at \$2,000 each, 4 at \$1,800 each; clerks—5 of class 4, 25 of class 3, 32 of class 2, 42 of class 1, 32 at \$1,000 each, 20 at \$900 each; messenger; assistant messenger; skilled laborer, \$720; 4 messenger boys, at \$360 each. Custodian force: Engineer, \$840; general mechanic, \$840; telephone-switchboard operator; 2 firemen; 2 watchmen; 2 elevator conductors, at \$720 each; 3 laborers; 2 charwomen; in all, \$248,950.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the subcommittee if in providing for the Civil Service Commission expenses there were increases made by reason of the new order issued on the 15th of October, by which the President placed a number of fourth-class postmasters under the classified service. I was not present at the hearing, but I have the testimony of Gen. Black, chairman of the Civil Service Commission, in which it appears that he insisted that the expenses of the Civil Service Commission would be increased by reason of that fact. I would like to inquire if there has been any increase in the appropriations made to the Civil Service Commission by reason of that order?

Mr. JOHNSON of South Carolina. Mr. Chairman, as I stated yesterday when the bill was taken up for general debate, one of the items of increase in the bill is for the Civil Service Commission. It was contended by the commission that the efficiency law of the last Congress imposed upon the commission additional labors. It was further claimed by the commission that the order of the President placing a number of fourth-class post offices in the classified service would greatly increase the labor of the Civil Service Commission. In order that there might not be even the appearance of an attempt to evade the civil-service law, either in letter or in spirit, the subcommittee and the full committee reported to this House considerable increases for the Civil Service Commission. In the particular paragraph now under consideration the increase over the current year is \$19,000.

Mr. BARTLETT. Occasioned by that order?

Mr. JOHNSON of South Carolina. Occasioned by the additional work caused by the efficiency law and the order of the President placing the fourth-class post offices in the classified service.

Mr. BARTLETT. Mr. Chairman, I made this inquiry for the purpose of placing in the RECORD, which I shall do, the regulations which have been adopted by the Civil Service Commission and the Post Office Department in the appointment of fourth-class postmasters. I call the attention of the House to the fact, and the information I elicited from the gentleman from South Carolina, because in the hearings before the subcommittee it was stated by the chairman of the Civil Service Commission and by the witnesses that there would be an increase in the expenditures of that office.

I want to read and place in the RECORD this order. It is as follows:

[Form 1752. November, 1912.]

UNITED STATES CIVIL SERVICE COMMISSION.

REGULATIONS GOVERNING THE APPOINTMENT OF POSTMASTERS OF THE FOURTH CLASS.

(Approved Nov. 25, 1912.)

All positions of postmaster of the fourth class, except in Alaska, Guam, Hawaii, Porto Rico, and Samoa, having been by the Executive order of October 15, 1912, placed in the competitive classified service and made subject to the civil-service laws and rules, the following regulations shall govern appointments to such positions:

1. Appointment to offices having an annual compensation of as much as \$500 shall be made in the same manner as provided by the civil-service law and rules for other positions in the competitive classified service, except as may hereinafter be provided.

2. Appointment to offices having an annual compensation of less than \$500 shall be made in the following manner: When a vacancy has occurred or is about to occur in any such office, the Postmaster General shall direct a post-office inspector to visit the locality and make selection and recommendation for appointment from among the persons filing applications, such selection and recommendation to be based solely upon the suitability of the applicant and his ability to provide proper facilities for transacting the business of the office. The inspector shall make his report in duplicate and accompany each duplicate with a list of all applicants. Such report shall include a statement of the qualifications of each applicant and of the reasons for the selection and recommendation. The Post Office Department shall transmit to the Civil Service Commission one copy of such report, showing its action thereon.

3. Whenever persons who are property taxpayers and patrons of a post office having an annual compensation of less than \$500 submit to the Civil Service Commission and to the Post Office Department sworn statements in duplicate, over their own signatures, that an applicant, an eligible, or an appointee is unsuitable for office, giving specific reasons therefor, the commission may investigate the matter; and if upon the evidence it is shown to the satisfaction of the commission that, in the case of an applicant or an eligible, he is unsuitable for appointment, he shall not be further considered for appointment; and if, in like manner, it is shown to the satisfaction of the commission that an appointee is unsuitable for office, he shall be removed after due procedure required by law; and the Post Office Department shall, upon receipt of such sworn statements from patrons, suspend appointment in the case of an applicant or eligible to which such sworn statements may relate until said investigation is made by the Civil Service Commission and reported.

4. In all cases selection for appointment shall be made with sole reference to merit and fitness and without regard to political or religious considerations. No inquiry shall be made as to the political or religious opinions or affiliations of any applicant or eligible, and in conformity with section 10 of the civil-service act no recommendation in any way based thereon shall be received or considered by any officer concerned in making selections or appointments. The attention of the writer of any such recommendation shall be invited to the purport of this order, and attention hereto shall be similarly directed in connection with any verbal recommendation. Where it is found that there has been a violation of these provisions by any officer concerned in making selections or appointments, such fact shall be cause for the immediate removal of such officer from the service, and the Civil Service Commission shall make prompt report of any such case for appropriate action to the Postmaster General or, as to presidential appointees, to the President. The appointment of the fourth-class postmaster concerned, if effected, shall be canceled. Persons employed as postmasters of the fourth class, while retaining the right to vote as they please and to express their opinions privately on all political subjects, shall take no active part in political management or in political campaigns. Any such postmaster taking such part shall be removed from the service or otherwise disciplined, recommendation as to the penalty to be imposed in each case to be made by the Civil Service Commission. This section shall apply to all offices of the fourth class of whatever compensation.

5. A postmaster of the fourth class having an annual compensation of less than \$500 shall not be eligible for transfer to any other position

in the competitive classified service. A postmaster of the fourth class having an annual compensation of as much as \$500 may, in accordance with law and the civil-service rules, be transferred to a position of rural carrier at the same post office after having passed the examination prescribed for original appointment as rural carrier or its equivalent; and he may be transferred under like restrictions to any other position in the competitive classified service after having served three years in such service.

6. When the annual compensation of an office is increased to as much as \$500 the incumbent of such office shall be given all the rights and privileges of persons appointed to offices with annual compensation of as much as \$500.

Approved, November 20, 1912.

FRANK H. HITCHCOCK,
Postmaster General.

Approved by direction of the United States Civil Service Commission,
November 21, 1912.

JOHN C. BLACK, President.

THE WHITE HOUSE, November 25, 1912.

Approved.

WM. H. TAFT.

I also have here the questions that are to be submitted. They are as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C.

INFORMATION TO APPLICANTS FOR EXAMINATION FOR THE POSITION OF
FOURTH-CLASS POSTMASTER.

The examinations for the position of fourth-class postmaster are as follows:

(a) For positions the annual compensation of which amounts to \$500 or more.

The examination for positions under (a), for which not to exceed four hours will be allowed, will consist of the subjects mentioned below, weighted as indicated:

SUBJECTS.	Weights.
1. Elementary arithmetic and accounts (simple tests in addition, subtraction, multiplication, and division of whole numbers and decimals, and a statement of a postmaster's money-order account).....	40
2. Penmanship (the handwriting of the competitor in the subject of letterwriting will be considered with special reference to the elements of legibility, neatness, and general appearance).....	10
3. Letterwriting (a letter of not less than 125 words on a topic suggested by facts furnished).....	10
4. Copying addresses (a simple test in copying accurately addresses given).....	10
5. Facilities for transacting postal business (based on the location of the post-office site, the convenience of office arrangements, etc., as shown in the application form).....	30
Total.....	100

According to the testimony of Gen. Black there will be quite a number of offices, a majority of them in which the salary is less than \$500. I will read from the hearings:

Gen. BLACK. Fourth-class post offices. They are divided into two classes by a horizontal line, those that are above \$500 and those that are below \$500. Those that are above \$500 are 4,457, besides 3,411 that were already included; and those that are below the \$500 line are 31,799, added by the order to 10,575 who already were in the service, and that makes a total of fourth-class postmasters of 50,222 places, 36,236 having been added, as I said before, on the 15th of October. Now the men that are below \$500 are appointed primarily upon an inspection made by the post-office inspectors under certain regulations, but there is not one of those appointments that may not at some time or another come within the purview of the commission and present facts that may require an investigation.

So that by this order, out of 36,000 offices that are to be filled, there are 31,799 that are to be filled upon the report of a post-office inspector. As far as I am concerned, a majority of the fourth-class post offices in the country I come from are in the same condition that they are in other parts of the country; the salaries are less than \$500. So that hereafter we are to have under this Executive order, if it shall remain, if Congress does not undertake to do anything to suspend or revoke it—there will be nearly 32,000 fourth-class post offices in which the postmaster is to be selected by a post-office inspector. As far as I am concerned, I do not relish, nor do I approve of that Executive anxiety for the civil service of the country which waited for four years and more, until a very few days of election, before it thought proper to place 36,000 post offices under the civil service, and of that number 31,799 will receive appointment only on the recommendation of the post-office inspector.

As far as I am concerned, I have no hesitancy in uttering my disapproval of that order. If it was necessary during the previous administration that this service should have been so nonpartisan, should have been covered within the provisions of the civil-service law, why was it not done before? Why did he wait until they were used—if it is true they were used, and it has been charged that they were used in advancing the political aspirations of the candidate for President. I know that in my State, in the section from which I come, they have not heretofore been appointed on the indorsement of the patrons of the office.

They have been appointed generally upon the recommendation of men who did not reside within the districts where they were appointed. In the State of Georgia there were three referees to whom the application was made, and no Member of Congress from the district in which these offices were situated, no Member from the State of Georgia, and no Senator could change or alter the result where the recommendation for the postmastership was made by the referee. That applied to all post offices of the fourth class as well as to post offices of the first, second, and third classes. I say that it is not a proper administration of affairs in the appointment of postmasters to have post-office inspectors, many of whom—in fact, most of whom—are not familiar with the people of the particular locality, have the determining voice in who shall be the postmaster in these 31,797 offices. I trust, Mr. Chairman, that if Congress shall not see fit to do something which will alter it the incoming administration will not permit that order which has been put into effect at the end of a Republican administration to remain. [Applause on the Democratic side.]

So far as I am concerned, I stand ready here and now to provide, if I can get the indorsement of the Members of this House, that not one dollar of the money appropriated in this section shall be paid to inspectors who are sent into my State and my district and in your State and your district to find out whom they shall recommend for the office of postmaster, and if I could, without violating the rule respecting new legislation, or if I could get past the point of order, I would offer an amendment which I have ready here now to repeal the order of October 15, which put under the civil service something over 36,000 post offices in this country. I do not say this because I am a spoilsman. I do not say this because I am anxious or hungry for office for my people, but I say so because I know what the people where I come from have endured for all the 16 years in which this system of permitting men to be appointed to the fourth-class post offices and other offices upon the recommendation of referees, and not upon the recommendation of men who represent those districts or States, the referee being selected by reason of his political affiliations.

Mr. MANN. Mr. Chairman, I am not in favor of the proposition which the gentleman from Georgia has stated to the House, but I can suggest to him a method by which he can bring it before the House if he so desires. All he needs to do is to move to strike out this paragraph, leave out the appropriation for one messenger at \$360, and reduce the total appropriation from \$248,950 to \$248,590, which makes a reduction of the amount carried by the bill, and add his provision repealing the order and permitting no other order to be made. Under the Holman rule that would make it in order.

Mr. BARTLETT. I have it ready.

Mr. MANN. I would like to see that side of the House vote upon it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Field force: District secretaries—2 at \$2,400 each, 1 at \$2,200, 4 at \$2,000 each, 5 at \$1,800 each; clerks—1 of class 4, 1 of class 3, 1 of class 1, 7 at \$1,000 each, 6 at \$900 each, 5 at \$840 each; messenger boy, \$480; in all, \$45,680.

Mr. FOWLER. Mr. Chairman, I make the point of order against that paragraph. There are three new clerks provided for there at \$1,800 each. It is new legislation, and I insist upon the point of order.

The CHAIRMAN. Does the gentleman make the point of order against the entire paragraph?

Mr. FOWLER. I do; under the rule that where there is new legislation in a paragraph the whole paragraph goes out.

Mr. JOHNSON of South Carolina. Mr. Chairman, I do not think the item in the bill is subject to the point of order. There is no law fixing the number of people that can be employed in the Civil Service Commission's office.

Mr. FITZGERALD. Mr. Chairman, is the point of order up for discussion?

The CHAIRMAN. The point of order has been made against the entire paragraph on page 30, lines 19 to 23, inclusive, for the reason that the provision for three of the five clerks at \$1,800 each is new legislation. Do I state the point of order correctly?

Mr. FOWLER. Yes; that is correct.

Mr. FITZGERALD. It does not necessarily follow, because a place is additional to those already provided for for the current year, that the provision therefore is subject to a point of order. That happens only under certain contingencies.

The CHAIRMAN. The principal thing the Chair would like to know is whether these five offices are authorized by law.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the Chair to section 169 of the Revised Statutes of the United States:

Each head of a department is authorized to employ in his department such number of clerks in the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

There are a number of rulings under this particular provision that in the various departments of the Government, unless the organic act specifically enumerates the positions to be created, that there can be carried in the acts appropriating for the service such clerical or other force as Congress may recommend.

Mr. FOWLER. May I interrupt the gentleman?

Mr. FITZGERALD. Certainly.

Mr. FOWLER. In this case these new positions are district secretaries. Prior to that there were only two district secretaries, and here it is attempted to create three new district secretaries. Does that fall under the gentleman's contention?

The CHAIRMAN. Does the gentleman from New York desire to argue the point further?

Mr. FITZGERALD. No; I have concluded what I have to say.

Mr. MANN. Mr. Chairman, if the Chair will permit, I would like to make an observation in reference to the rule. Mr. Chairman, the rulings in regard to matters of this sort are so arbitrary and artificial that sometimes it is necessary to restate them. The rulings are uniform for many years that so far as the salary is concerned the salary in the current law fixes the salary for the bill. In other words, an increase in the salary of an official when that salary is covered by the current law can not be made over a point of order. This is a purely artificial ruling, because there is no salary fixed by law for these places, but long ago some Chairman held that current law fixed the salary, because without that the House was in confusion. Now, there is also no law fixing the number of these places, but there is a uniform ruling that where the position was authorized at all you could increase the number of places in that position unless the law fixed the number. Take, for instance, the most common illustration, which is the Post Office Department. The number of clerks and carriers in the Post Office Department is not fixed by law except the current law. They have to be increased every year. It is impossible as a matter of practice to pass a law definitely fixing for future years the number of clerks or carriers in the Post Office Department. The same is true of clerks in the different departments in Washington, but where a certain number is carried in the current law, say, two at \$1,800, while the salary fixed is in the present bill and current law the number is not governed by the current law, and in this case the Civil Service Commission, being authorized to do this work and have these employees, the number of employees in the current law does not control the House in fixing the number in the bill each year, although the salary is controlled by the current law. Now, these officers being authorized by the law, the number may be increased by Congress from time to time without being subject to a point of order.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] desire to be heard further on the point of order?

Mr. FOWLER. Mr. Chairman, according to the rules of this House no new position can be created in an appropriation bill without being subject to a point of order. This has been the holding of the Chair almost universally since I have been a Member of this House. It was the holding of the Chair during the last session of Congress, and only in a few instances, where the Chairman had been called from the body of the House, was that ruling digressed from. In fact, Mr. Chairman, in this instance there is a creation of three new positions at \$1,800 each. The contention of the gentleman from Illinois [Mr. MANN] that where the work of a department is authorized and the number of servants fixed by law might not control in that decision upon the point of order is not, in my mind, borne out by the rulings of this House in the past. There are three distinct and important positions created here known as district secretaries, and prior to this time there were only two district secretaries. They received each \$1,800. Now it is proposed by this bill to create two additional district secretaries at \$1,800 each.

It is just as much new legislation in this instance as though it had created three assistant district secretaries at a salary of \$1,800 each. And there is no difference, and there is no getting away from the rules of this House which have been the controlling force in passing upon questions of this character.

I had an occasion during last session to present this question and recite the authorities which had been given by former rulings of the Chair. I have not those authorities before me now. But I say, Mr. Chairman, that this is new legislation,

and under the rules of this House it is subject to a point of order, and we can not escape it however much the gentlemen who are in charge of this bill may desire to do so.

The CHAIRMAN. The Chair is ready to rule. It seems to the Chair that the first question for the Chair to ascertain is whether or not section 169 of the Revised Statutes authorizes these clerks or whether the head of a department has the right to employ these five clerks. In 1906 Mr. Hull, of Iowa, was in the chair, and this identical question came up and was decided by him on a point of order made by Mr. Tawney upon clerks of a similar nature in the War Department. Mr. Hull held at that time, quoting section 169, that where the statute had authorized the heads of the department to employ clerks and other laborers that it was in order, and he overruled the point of order. He used this language:

The first question is, What law authorizes this appropriation? The only law referred to is that contained in section 169 of the Revised Statutes, which is as follows:

Here he quotes the statute. This is a similar case, where the gentleman from New York [Mr. FITZGERALD] cites the statute, section 169, as authority for this legislation. Mr. Hull made this comment:

The next question, of course, is whether these clerks referred to in the items to which objection has been made are to be employed by the head of a department and in his department. The gentleman from Iowa, Mr. Hull, is quite correct in his statement of the ruling made by the occupant of the chair, Mr. Hopkins, as referred to on page 2404 of the Record, third session Fifty-fifth Congress, but it appears that at that time the Chairman of the Committee of the Whole was not familiar with the ruling of the Attorney General, which has been submitted to.

And he went on and held that these clerks were to be employed as contemplated in section 169 of the Revised Statutes. The Chair is of the opinion that section 169 would apply to the clerks in this item, and therefore overrules the point of order.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RUBEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 7531. An act to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, P. R.

The message also announced that the President pro tempore had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the Joint Select Committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the Executive departments," for the disposition of useless papers in the War Department.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. GEORGE H. UTTER, late a Representative from the State of Rhode Island.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced, the Senate do now adjourn.

Also:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

Also:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of the Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Expert examiners: For the employment of expert examiners not in the Federal service to prepare questions and rate papers in examinations on special subjects for which examiners within the service are not available, \$2,000.

Mr. BARTLETT. Mr. Chairman, I desire to offer an amendment to that paragraph.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, line 11, after the figures "\$2,000," insert the following: "Provided, That no part of the amounts appropriated under this paragraph or in this bill shall be used to pay for inspectors of the Post Office Department for expenses incurred in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make a point of order against that amendment. It changes existing law and seeks to regulate Executive orders.

Mr. FITZGERALD. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] makes the point of order that this changes existing law and Executive orders made under existing law.

Mr. BARTLETT. But, nevertheless, Mr. Chairman, under the rules of the House under which we operate we can change existing law if it reduces expenses. And the gentleman from South Carolina [Mr. JOHNSON] has stated in this House that the increase in the expenditures of the Civil Service Commission in its operations during the coming fiscal year was due to the fact of the Executive order issued on October 15. It will appear from the testimony which I called attention to which was taken before the subcommittee of the Committee on Appropriations, of which the gentleman from South Carolina [Mr. JOHNSON] is the chairman, that the increase in the expenditures was due to the fact that examiners would have to be appointed especially and their expenses paid by reason of this order. I will not undertake to reread that which I have read upon the subject from the hearings, but if the Executive order is law—and it is—we can at all times, even when we are not operating under the Holman rule, limit that expenditure, even though that expenditure were provided for by law. It is a simple limitation of the expenditure, and I need not, I apprehend, call the Chair's attention to the frequent ruling that, while you can not change the existing law, you can limit an expenditure under the existing law.

Mr. TRIBBLE. Mr. Chairman, I desire to join my colleague from Georgia [Mr. BARTLETT] in his protest against civil-service examination for fourth-class postmasters. I feel that I am especially justified in raising my voice against this Executive order, because if there ever was an official negro-ridden town it is the city of Athens, Ga., where I live. I have seriously considered the civil-service proposition as applied to post offices, and I see danger in the proposition. If you will analyze this order and its requirements you will find that the examination under the civil-service order will place in the fourth-class post offices in the South, as well as those in the other parts of the United States, many negroes. They will stand the examinations and take their places at the windows of small country and village post offices. I want to say to you here to-day that the people of this country will not stand for it. Gentlemen from all sections, let me say to you, your constituents in the West, in the East, or in the North will not stand for it. In my district there is a negro rural carrier. How would your constituents like that? It is not fair to my people; it is not just to the South. I shall not sit quietly in my seat and permit an order placing post offices under civil service, knowing that negroes will have the way open to stand behind the windows and deliver mail as postmaster, and not protest with all the earnestness of my soul.

This order becomes odious to my people the very moment negroes stand examination for post-office positions. Every man in this House would join in this fight to defeat this order if it placed you in the situation it places me. I know from experience the humiliation of negro officeholders, and I warn you here to-day of danger in the enforcement of that order. For 16 years, since my sojourn in Athens, there have been negroes in the post office of that classic city, and during 12 years of that time there was a negro postmaster. In this city the State university is located, and there are over a thousand students. To-day nearly every carrier in that city is a negro. White people will not stand the examinations and compete with these negro carriers. When an examination is held the negro is there.

The city carriers are not so objectionable as the rural carriers. A rural carrier goes among the country people. He meets the lady of the house at the door. She may be alone. She may be a widow, a sister, or an only daughter; to her he sells stamps, and she has to deal with this negro in all postal affairs. It is not fair to my constituents; they are law-abiding citizens and have submitted unwillingly. I repeat, it is not fair to any section of this country to place the holders of fourth-class post offices under a civil-service examination, especially the rural districts

in the South. This Executive order places fourth-class offices alongside the rural carrier and city carrier examinations, and you add to the negro carrier list a long list of negro postmasters in the South.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman yield?

Mr. TRIBBLE. Yes.

Mr. GILLETT. Does the gentleman from Georgia know of any cases where these negro carriers that he speaks of have abused their positions?

Mr. TRIBBLE. Yes.

Mr. GILLETT. Where?

Mr. TRIBBLE. I have made two fights since I have been in Congress before the Post Office Department against an official rural carrier who has been shown to be incompetent, ignorant, old, and offensive to the patrons, and yet he has been retained on that route. I made one fight on him before I was elected to Congress and I never expect to let up until a white man succeeds him. He can not read and write well enough to read the addresses on the pieces of mail, and yet the Post Office Department has refused to dismiss him.

Mr. GILLETT. Has there been any abuse of women?

Mr. TRIBBLE. I made no such charge as that in that case.

Mr. GILLETT. Have there been any charges of that kind in these cases?

Mr. TRIBBLE. None in the case of which I have spoken.

Mr. HILL. Mr. Chairman, when I entered Congress 18 years ago there were 167 post offices, according to my recollection, in the fourth district of Connecticut. About 32 of those were presidential and the rest were fourth-class offices. Now, I do not know that my experience is of any benefit whatever to gentlemen who are coming into full and absolutely complete control of the Government for the next four years. You notice I limit it to four years. [Laughter.]

Mr. MANN. Make it two years.

Mr. HILL. No; I will not limit it to two years. I will limit it to four years. By Executive order all but 32 of these post offices were taken from my jurisdiction, and the happiest time of my political life has been since they were taken away.

Make no mistake about that. I am a firm believer that not only the fourth-class offices but the presidential offices as well should be put under civil service. There is nothing in my experience that is so distasteful as a post-office fight, unless it is a school-district fight or a church fight, one or the other, and I am still in doubt as to which is the most distasteful. I believe that the wisest thing for you gentlemen is to have the recent Executive order go into effect and remain in operation.

I realize the conditions in the South to which the gentleman has referred, and that, as he says, the South will not stand it. I notice that you do stand it, so far as your house servants are concerned, and you do stand it in a great many other respects. I do not believe it is any worse for a colored man to hand you a letter through a general-delivery window than it is for a house servant to hand you your food at your meals. I am not going into that discussion at all. I am simply looking at it from my standpoint. From my standpoint, the wisest thing that can happen to you gentlemen is to be divested of the responsibility of naming postmasters.

I want to say another thing to you: A determined effort is doubtless being made to have that order revoked. Since I have been a Member of the House of Representatives from Connecticut no Democrat has ever been removed from a postmastership in my district, and there is to-day one presidential postmaster there appointed by Grover Cleveland still serving. Why? Because I never felt it my duty to go around the district and hunt up some man to take his place and no Republican ever asked to have him removed, and there are several fourth-class postmasters appointed, as I recollect, by Grover Cleveland, who are still serving there or who were when President Roosevelt put them in the classified service.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. HILL. Certainly.

Mr. BARTLETT. What would the gentleman do if nine-tenths of the patrons of an office should ask him to have a particular person appointed to a fourth-class office, and there was no one else who objected to it? Would you not think that man ought to be appointed?

Mr. HILL. My rule has been this, that every man should serve out his time, and then if there was a Republican who made application, indorsed unanimously by the Republican town committee, I made it my business to see that the Republican was appointed, and I assume that every one of you would do the same thing.

Mr. BARTLETT. I know I would.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. HILL. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. BARTLETT. The gentleman did not answer my question. There are innumerable cases where appointments have been made to post offices where the applicant did not receive the indorsement of any of the patrons of the office, but was appointed solely upon the recommendation of some Republican referee who did not live in the town or in the district.

Mr. HILL. Of course I can not appreciate that condition. My rule has been this: If the Republican town committee were unanimous in behalf of any man, I recognized that committee as the official representative of the party in the town and carried out their wishes.

Mr. BARTLETT. I think the gentleman did right.

Mr. HILL. If they were not unanimous, I felt that the burden rested upon me, and looked at it always as a burden resting upon me to determine the case. Now, gentlemen, leaving out the question of the peculiar conditions in the South to which the gentleman has referred, and which I think are magnified in some respects, you will be better off to have that responsibility lifted from your shoulders than to carry the burden.

Mr. TRIBBLE. Will the gentleman yield for a question?

Mr. HILL. Yes.

Mr. TRIBBLE. I should like to know if this Democratic postmaster in the gentleman's district has not been voting the Republican ticket lately?

Mr. HILL. Possibly so; I do not know, and I do not care how he has voted. He has made a good postmaster, and no Republican in that town has ever asked for his removal. If they had united in asking for it, I should have removed him. I am frank to say that. I think you are entitled to the legitimate patronage of this office to which you have elected Dr. Wilson. The responsibility is going to be a terrific burden upon you, and you are just beginning to realize that. But I want to say to the gentleman from Georgia just one other thing, that there is a feeling in the North that you can not absolutely take away from the colored man in the South all of the privileges of citizenship if you hold him to its responsibilities. You can not always have representation on this floor by counting him as a citizen and absolutely ignoring him as a vital living factor in this Republic, and the time will come—I say it frankly to you—when the present system must be changed. You can not seat eight men on this floor with an aggregate of 23,000 votes and at the same time find each one of the Members on this side representing 35,000 to 40,000 votes. I do not know the best way to meet the situation, but it is one which you have got to face in the next four years, for it is not fair to us in the North.

But let that go as it is. I give it to you as my experience that when the hundred or more fourth-class post offices were taken out from under my responsibility by order of President Roosevelt it was the happiest time of my political career. [Applause.]

Mr. COOPER. Mr. Chairman, I ask unanimous consent to address the House on this question.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. COOPER. Mr. Chairman, some years ago, at the time of the famous Machen case, which the House will remember, this question as to the repeal of all appropriations for the Civil Service Commission came up. During the debate I opposed the repeal and quoted from the utterances of some very distinguished statesmen who had been perfectly familiar with the abuses which existed prior to the enactment of the civil-service law.

I will read from my speech in that debate what Gen. Garfield said in an article in the Atlantic Monthly, and also what other distinguished men said in the Senate and on the floor of the House:

One-third of the working hours of Senators and Representatives is hardly sufficient to meet the demands made upon them in reference to appointments in office. * * *

The present system * * * impairs the efficiency of the legislators; * * * it degrades the civil service; * * * it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and, finally, it debauches the public mind by holding up public office as the reward of mere party zeal.

To reform this service in one of the highest and most imperative duties of statesmanship.

On the floor of the House, Gen. Garfield said, on the 4th of March, 1870:

We press such appointments upon the departments; we crowd the doors; we fill the corridors; Senators and Representatives throng the offices and bureaus until the public business is obstructed; the patience of officers is worn out, and sometimes, for fear of losing their places by our influence, they at last give way and appoint men, not because they are fit for their positions, but because we ask it.

President Grant, speaking in 1870 of the great evils of the spoils system, said:

There is no duty which so much embarrasses the Executive and heads of departments as that of appointment, nor is there any such thankless labor imposed on Senators and Representatives as that of finding places for constituents. The present system does not secure the best men, and often not even fit men, for the public places. The elevation and purification of the civil service of the Government will be hailed with approval by the whole people of the United States.

Senator Vest, a very distinguished Democrat from Missouri, said:

When I entered the Senate I became chairman of the Committee to Examine the Several Branches of the Civil Service, and for two years I was engaged with the rest of that committee in taking testimony upon the subject of civil-service reform. That very great evils exist there can be no sort of question—evils so monstrous, so deadly in their effects that men of all political parties have come to the conclusion that some remedy must be applied.

That evils exist there can be no sort of question. Money has become the great factor in the politics of the United States.

Now, Mr. Chairman, I will read only one more quotation. It is from an equally distinguished Democrat, who served the Nation with distinction in the Senate and afterwards in the diplomatic service at the Court of St. James, Senator Bayard, of Delaware.

Senator Bayard said:

No man obtained an office except he was a violent partisan, and the office was given to him as a reward for party services; and so things went on until the offices generally were filled under that system, which was false and dangerous in the extreme—a system which, as my friend from Ohio said, is absolutely fatal to the integrity of republican institutions, I care not what party or under what name it may be organized and carried on.

Mr. Chairman, that is the testimony of witnesses of unimpeachable character and of the highest ability—statesmen, Democrats as well as Republicans—depicting the evils and abuses then in vogue, and speaking for the betterment of the service. [Applause.]

Mr. SLAYDEN. Mr. Chairman, I ask unanimous consent to address the House for two minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to address the House for two minutes. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Chairman, I want to ask the gentleman from Wisconsin [Mr. COOPER] a question, if he will permit me. I agree substantially with all that Senator Vest said, and I agree generally with the doctrine of an orderly and permanent civil service. My misgivings with reference to it have grown out of the fact that in my judgment every time that you strengthen the civil service you increase the army of pension beggars, and at last you will have a horde of them supported by pensions. If the President, for whom I have great respect, wanted to be perfectly fair, should he have waited until the close, or nearly the close, of his administration, when practically every office in the South had been filled with Republicans, and then put this blanket of civil-service protection over them and deny the people in a large section of this country the right to be represented by men whom they want in office?

Mr. HILL. Mr. Cleveland did the same thing.

Mr. SLAYDEN. If he did the same thing, I will say that he did what I do not approve.

Mr. HAMILTON of Michigan. I desire to call the gentleman's attention to the fact that a large number of the fourth-class postmasters were covered into the civil service under Mr. Roosevelt.

Mr. SLAYDEN. Surely the gentleman does not expect me to approve of what President Roosevelt did.

Mr. HAMILTON of Michigan. But the gentleman has stated that all these postmasters—

Mr. SLAYDEN. Oh, no; I have reference to this last order, issued October 15, by the present incumbent of the Executive Office. Does the gentleman from Wisconsin think that it was fair and proper?

Mr. COOPER. Mr. Chairman, the gentleman's interrogatory consists of two branches.

Mr. SLAYDEN. Answer the last one first, please.

Mr. COOPER. The first one was whether the establishment of a civil service did not look to the establishment of a civil

pension list. That is a non sequitur. I do not see how one follows the other.

Mr. SLAYDEN. It does.

Mr. COOPER. I do not consider that men in office on salary are pensioners while they are discharging the duties of office. It is a misuse of words to apply the term "pensioner" to such a person. That answers that part of the interrogatory. To the next part of the question I would say this: It always has seemed to me that one of the greatest evils in our political life is the old-fashioned spoils system, under which men think that they have discharged their political duties when they have voted for a man who has appointed a postmaster to suit them. Then they become quiescent for four years, caring nothing about public affairs except who is postmaster.

Mr. SLAYDEN. Does the gentleman think he was fair in that order?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. STANLEY. Mr. Chairman, I ask unanimous consent to address the committee for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STANLEY. Mr. Chairman, it is passing strange to me that gentlemen on the other side of the Chamber did not become conscious of their agony until after they were relieved of their pain. Usually men suffering under an intolerable burden, like men suffering from a bunion, complain of it at the time, but we have heard nothing of the woe of these gentlemen who have been forced to name these fourth-class postmasters under an antiquated spoils system until after the power to appoint them was gone, and then we are overwhelmed with jeremiads. Their pity for us in enduring and assuming this great burden is appreciated, but we would feel, down in our hearts, still greater gratitude and we would attribute to them greater sincerity if we had heard this tale of woe at an earlier date. For 16 years they have been in power and they have not spent 16 minutes of all that time in complaining of the monstrous iniquity of being forced to name fourth-class postmasters. Is it possible that these men could have understood—these able gentlemen—what a monstrous thing it was to be forced to fill fourth-class offices with postmasters most agreeable to their constituents; that that was altogether an iniquitous procedure, and that a President, 1,000 miles away, could perform the job much better? They are guilty of nonaction, of a conspiracy of silence akin to misfeasance, in keeping still so long. It is, the poet has said, a noble thing to suffer and be silent and strong. They have certainly borne their agony with amazing fortitude as long as they were called upon to endure it. [Laughter and applause.] If it was such a righteous thing—and God knows they were in dire need of having a President perform righteous acts for the last year or two—why did not some one of those gentlemen, so conscious of the iniquity of this system, whisper it a year or two earlier into the willing ear of the President of the United States? Years ago they might have been relieved, years ago they might have been happy, even as the gentleman from Connecticut [Mr. HILL] is happy; years ago they might have danced around this Chamber with the heavy load off their shoulders, with nothing to do but to consider great constitutional questions, with these letters about petty jobs off their desks and off their minds, if they had but spoken the word. But, Mr. Chairman, they forget the capacity for labor of a Democratic Congressman; they forget our willingness to suffer. [Laughter and applause.]

They forget how we love the people; they forget we worship that God who sees the sparrow's fall; that humble as we are, not so accustomed as those we succeed to the consideration of great constitutional questions, new in office, we are willing to listen to the plaintive cry of the humble postmaster and to take some time even from our more pretentious duties to attend to his claims and see that the will of the people in small communities is met and satisfied. [Loud applause on the Democratic side.]

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] made a point of order against the amendment offered by the gentleman from Georgia upon the ground that it changed existing law and limited Executive authority. A careful examination of the amendment will reveal the fact that it does not in any respect change existing law, but does place a limitation upon this particular appropriation and in a way limits the Executive authority. The rules of the House provide that you may place a limitation upon appropriations, and there are a number of rulings to the effect that you may place a condition upon an appropriation as to even limit the Executive authority. One quotation I have from Chairman Watson, of Indiana, will

convince the House of that ruling. In passing upon what is known as the "canteen" amendment he made this statement:

It has been repeatedly held in this House and is an invariable precedent that the House may provide that no part of an appropriation shall be used except in a certain way even though the Executive discretion be thereby restricted.

It seems to the Chair this is clearly a limitation on the appropriation and a possible limitation on the Executive discretion, and is in order under the rules of the House. The Chair overrules the point of order, and the Clerk will report the amendment.

The amendment was again reported.

Mr. MANN. Mr. Chairman, a few moments ago the gentleman from Kentucky [Mr. STANLEY] became very eloquent in defending the patronage system as to fourth-class post offices, and enunciated the doctrine, which I take it I agree with him on, that that side of the House is much more competent to seek jobs than it is to determine constitutional questions. [Applause on the Republican side.] The gentleman seemed to assume, however, that this side of the House has been enjoying in recent years the naming of fourth-class postmasters. It is very natural gentlemen on that side of the House should assume that because they have not had any connection probably with fourth-class postmasters—

Mr. BURLESON. Nor experience.

Mr. MANN. But a great majority of this side of the House for years have had nothing whatever to do with the appointment of fourth-class postmasters, because it was during the Roosevelt administration that fourth-class offices east of the Mississippi River and north of the Ohio River were placed in the classified service, and that rule was in fact applied to most of the other Northern States.

Mr. BARTLETT. May I interrupt the gentleman?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Georgia?

Mr. MANN. I do.

Mr. BARTLETT. Of course, I was aware of the fact that President Roosevelt placed the fourth-class post offices in a certain territory under the civil service a few years ago, but can the gentleman suggest any reason why the President withheld from its operation the other portions of the country south of the Potomac?

Mr. MANN. I can suggest a very good reason. It was not practicable with the limitations of the civil service to cover the entire country into the classified service at one time. Before these offices were covered into the classified service the rule had already been announced by the Post Office Department that it would not remove a fourth-class postmaster in office for the purpose of appointing a new one without charges and cause. These offices have not been patronage offices for many years to the extent that gentlemen on that side of the House assume. It is the fact that when the civil-service law was passed it was in contemplation at the time that as administrations were retired the President would issue orders covering new offices into the classified service, and most of the classified service now is composed of offices which were covered into that service under the civil-service law by retiring Presidents. I came to Congress with the McKinley administration, following the Cleveland administration.

President Cleveland, shortly before he went out of office, covered into the classified service most of the offices not then in which amounted to anything. I listened for some years to arguments and speeches on this side of the House, in the majority under the McKinley administration, much like those I have listened to on that side of the House. This side of the House, in control, had the nerve to stand against the demand of the few office seekers as compared with the many people to be served, and resisted the attempt to return to the undesirable spoils system of the offices of the country. [Applause.] You are now in a position where I hope you will have nerve to vote and not dodge. If you vote for this provision in the law it will be vetoed by the President, but you will be on record before the country as favoring the spoils system instead of the merit system. [Applause.] And when your own President goes into the White House he will not permit you, in the light of the history of his career, to return to the demoralizing spoils system those offices which are at the beginning of his administration under the merit system.

I dare you to vote this amendment into the bill. [Applause on the Republican side.]

Mr. CULLOP. Mr. Chairman, I will say, in reply to the gentleman from Illinois, that for one I shall vote for this amendment, and when I am voting for this amendment I am voting to tear down a rotten spoils system. These men who have had

their life tenure fixed by this order secured their offices by the spoils system, and you want us to ratify it now. It is in bad taste for any administration as it is going out of power and there is a change of party to undertake to fasten upon the country officeholders of its own political faith when that party has been repudiated at the polls. [Applause on the Democratic side.]

What does this extension of the civil-service class mean? It means to increase the power that is being brought to bear on Congress to-day to create a civil pension list. To-day the power of patronage in the hands of the Executive of this Nation, it matters not of what political faith, is one of the things that menaces the welfare of the country. Five hundred thousand men are subject to appointment, removal, promotion, or demotion in office by the order of the Chief Executive of this Republic. Behind them is a great sum as the annual pay in salaries. A most powerful leverage is brought to bear by virtue of this system to continue the administration in power. And the abuse of this patronage by the former President of the United States and the present Chief Executive brought about the downfall of the Republican Party in the last election. The present Chief Executive was nominated through the official patronage of the former President of the United States. He was renominated at Chicago last June by virtue of the Federal patronage and not as the choice of a majority of the Republicans in this country. It has been used as a political asset and created a great power.

It is time to eliminate it. It has been the subject of political abuse, and to-day these offices are filled by the appointees as Republicans, and they have not come into office by virtue of the civil service, but it is proposed they shall retain their office by virtue of it and feed for the remainder of their lives at the public crib. For one I shall oppose the proposition in whatever form it presents itself. Life tenure of office I deny is advantageous to the public service. It nullifies inspiration and ambition in the holder, because there is no inducement for him to exert himself and elevate the service. Service under it should be for a fixed period of duration, not to exceed four years, with opportunity of reappointment. Then there would be inducement for improvement of service, but as it now is there is none. He is fixed for life, and because of that fact he becomes indifferent in the discharge of his duties and careless as to public sentiment. Both of these are not likely to improve the service, and the public suffers in consequence thereof.

The civil-service law as administered has become a great political machine, and it is no surprise in view of this condition that nearly all appointees are of one political faith. It is no surprise in view of this fact that it has become a powerful factor in the Republican machine and plays an important part in every campaign. It was said many years ago by Roscoe Conkling, of New York, that it would become a "snivel service" instead of a civil service. Has it not practically become so now as administered? Does not everyone know that its administration for some years has been partisan, and as such it has manifested itself throughout every department of the service in which it is known? It needs attention and changes should be made or its beneficial purposes will all be nullified. We all favor good public service, but we know this law as now administered does not produce such a result, and we all deplore that fact. Changes in the law and its administration should be made in order to promote the service and secure to the people and the country the very best service possible.

Mr. JOHNSON of South Carolina. Mr. Chairman, the particular item in the bill to which the amendment of the gentleman from Georgia [Mr. BARTLETT] has been offered, provides for the employment of technical men to prepare examination questions upon scientific subjects. There is not a dollar carried in this bill to pay post-office inspectors to carry out the Executive orders. The post-office inspectors are provided for in the Post Office appropriation bill. This proposed amendment can have no effect in law. It limits no appropriation that is necessary to carry on the work under the last Executive order. If gentlemen want to come upon the floor and vote to repeal the civil-service law, let them do it in a proper manner, on a proper bill, from a committee having jurisdiction of that subject. Under the original law the Executive is authorized by Executive order to extend the civil service from time to time. You may by this vote express your disapproval of President Taft's order, but he could renew it to-morrow. You may by a vote upon an amendment that can have no legal effect put yourselves and your party in an embarrassing attitude before the country. After the 4th of March there will be another President. He will consider with great care whether or not the recent order of the President shall stand. He may modify it or he may, in

spite of any amendment we put here in this bill, extend it beyond its present scope.

Now, Mr. Chairman, I hope that we will not put ourselves in the attitude of making the country believe that we intend to evade either the letter or the spirit of the civil-service law. [Applause.] I believe that the committee acted wisely and justly when it increased the appropriation for the Civil Service Commission, in order that that commission might have ample force to carry on its work. So, now, what is the use of voting for this amendment to this particular paragraph of the bill? It carries \$2,000, with which to employ experts to prepare questions on scientific subjects—chemistry and things of that kind. The original law puts it in the power of the President to extend the civil service. You can not control the Executive unless you repeal the law, and for my part I do not want to repeal the law.

Mr. FITZGERALD. Mr. Chairman, I hope that the amendment will not be adopted. If the purpose be to prevent the use of certain appropriations to defray the expenses of post-office inspectors who are assigned to make investigations in connection with the appointment of fourth-class postmasters under the recent Executive order, it has not been drawn with the usual care and skill of the gentleman who presents it.

The gentleman from South Carolina [Mr. JOHNSON] has said there are no appropriations in this bill available for the pay of post-office inspectors or for their expenses. But if there were, Mr. Chairman, this amendment would not only prohibit the payment of money to post-office inspectors detailed to select persons to fill fourth-class post offices under the recent Executive order putting them in the classified service, but it would prevent the expenditure of money to defray the expenses of such inspectors to do that work if that Executive order were rescinded, suspended, or revoked. It provides that no part of the amounts appropriated under this paragraph or in this bill shall be used to pay inspectors of the Post Office Department for expenses incurred in making selections and recommendations for the appointment of fourth-class postmasters. Prior to the issuance of the recent Executive order the post-office inspectors were detailed for that very work. This would prevent, regardless of whether they were in the classified service or in the unclassified service, appropriations being utilized for such a purpose.

Moreover, Mr. Chairman, I do not believe it is proper to attempt to penalize an employee for discharging the functions of his office under orders of his superior. The post-office inspectors would have no discretion. If they were directed to make the investigation, even if Congress prohibited the payment of their salaries or expenses when engaged on certain work, they could not assign as a reason for not making it that a particular appropriation could not be utilized to pay them. They would have to do it, and Congress would be attempting to penalize a subordinate for discharging the duties of his office under the direction of his superior. Regardless of the merits of the controversy as to the wisdom or propriety of the order of the President placing fourth-class postmasters in the classified service, I feel quite confident that gentlemen on this side of the House do not wish to enact such a provision as this, that makes it impossible to utilize the post-office inspectors to investigate applicants for fourth-class post offices under any conditions or to penalize them if they do so, at the direction of their superiors. I hope the amendment will not prevail.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. BARTLETT].

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 11, noes 67.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Establishment and maintenance of system of efficiency ratings for initial year: Clerks—1 (in charge) of class 3, 2 of class 2, 3 of class 1, 1 (stenographer and typewriter), \$1,000; 5 temporary clerks, at \$900 each, needed for one year during the installation of the system; in all, \$13,500.

Mr. FOWLER. Mr. Chairman, I make a point of order against this paragraph. It is new legislation.

The CHAIRMAN. Will the gentleman from Illinois point out in what particular it is new legislation?

Mr. FOWLER. It is not authorized by law, neither has it been carried in any previous appropriation bill. It is entirely new. No part of it has ever been enacted heretofore. There is no provision for any of the positions created in this paragraph, and it is entirely new legislation.

Mr. JOHNSON of South Carolina. Mr. Chairman, the last legislative bill provided that a system of efficiency ratings should be kept by the Civil Service Commission. This appropriation is made to enable the commission to carry out the duties imposed upon it by the law. I do not think it is necessary to say anything more.

The CHAIRMAN. The Chair will ask the gentleman if he has before him the provision in the last legislative bill. If the Chair understands the position of the gentleman from Illinois, it is that this is not authorized by law.

Mr. FOWLER. I desire to call the attention of the Chair to the note to Rule XXI in the Manual, beginning with the last paragraph:

An appropriation for an object not otherwise authorized does not make authorization to justify the continuance of the appropriation another year, and a mere appropriation for a salary does not create an office, so as to justify appropriations in succeeding years, it being the general rule that propositions to appropriate for salaries not established by law or to increase salaries fixed by law are out of order.

Citing authorities heretofore passed upon.

The CHAIRMAN. The Chair will ask the Clerk to read a portion of section 4 of the last appropriation act which the Chair has marked in brackets.

The Clerk read as follows:

SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia, based upon records kept in each department and independent establishment, with such frequency as to make them as nearly as possible records of fact.

The CHAIRMAN. It must be very clear to the gentleman from Illinois [Mr. FOWLER] that this authorizes the creation of a system of efficiency ratings. To create such a system there must necessarily be employees to perform the work. This point of order would probably have been good against this provision in the former appropriation bill on the ground of being new legislation. The provision in the present bill is clearly within the authority authorized in the last appropriation bill, which the Clerk has just read from the desk. The Chair thinks the point of order is not well taken, this authorization having been fully made in the last appropriation bill.

Mr. FOWLER. But, Mr. Chairman, in that bill there was no creation of certain offices, which this bill purports to do. If the Civil Service Commission has the authority to discharge certain duties, there is no need, then, of specifying and limiting that Civil Service Commission to any certain line of duty by naming just the specific work, through certain offices, which shall be done. In other words, the Civil Service Commission law does not create the offices which are created in this paragraph, and it has been the universal holding, so far as I have been able to find, that an appropriation bill creating new positions and fixing new salaries is subject to a point of order, and that is just what I read from the book of rules of this House.

The CHAIRMAN. There is no question that the gentleman is correct, except where there is a specific provision authorizing certain work. Where you have a specific authorization there must necessarily be carried with it the power to do that work, and the Committee on Appropriations at this session is appropriating for clerks, and so carrying out the provision of law carried in the last appropriation bill. The point of order is overruled. The Clerk will read.

The Clerk read as follows:

For necessary traveling expenses, including those of examiners acting under the direction of the commission, and for expenses of examinations and investigations held elsewhere than at Washington, and including not exceeding \$1,000 for expenses of attendance at meetings of public officials when specifically directed by the commission, \$12,000.

Mr. FOWLER. Mr. Chairman, I make a point of order against at least a portion of this paragraph—that part which appropriates \$1,000 for the purpose of attending public meetings. It is new legislation, and in my opinion it is not warranted by any authority in the civil-service act.

The CHAIRMAN. The Chair will ask the chairman of the committee in charge of the bill whether that is new legislation.

Mr. JOHNSON of South Carolina. Mr. Chairman, I call the attention of the Chair to section 8 of the appropriation bill in which that law was first enacted.

No money appropriated by this or any other act shall be expended for membership fees or dues or any officer or employee of the United States or of the District of Columbia in any society or association, or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriation for such purpose or are provided for in express terms in the appropriation act.

That covers the exact language that we have followed here.

Mr. COX of Indiana. What is the gentleman reading from?

Mr. JOHNSON of South Carolina. I am reading from the law limiting the expenditure of money for these purposes.

Mr. COX of Indiana. Section 8?

Mr. JOHNSON of South Carolina. Section 8 of the District of Columbia appropriation act for the current year.

Mr. FOWLER. But that is only for the District of Columbia.

Mr. BURLESON. But it was made to apply to all the departments.

Mr. JOHNSON of South Carolina. That was where the law came from that limited it.

The CHAIRMAN. Has the gentleman from Illinois [Mr. FOWLER] anything further to suggest?

Mr. FOWLER. No.

The CHAIRMAN. It strikes the Chair, from the language read by the chairman of the committee having the bill in charge, that it was contemplated that the Committee on Appropriations should have authority and that it does have authority to make this specific appropriation, if they see proper, and the Chair thinks the point of order is not well taken. The point of order is overruled. The Clerk will read.

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

Mr. BARTLETT. A new independent paragraph at the end of page 31.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

That the Executive order of October 15, 1912, issued by the President of the United States, placing in the competitive classified service postmasters of the fourth class, is hereby repealed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

Mr. MANN. Mr. Chairman, I would like to have the amendment again reported.

The CHAIRMAN. Without objection, the amendment will again be reported.

There was no objection, and the Clerk again reported the amendment.

Mr. JOHNSON of South Carolina. Mr. Chairman, I make a point of order against that as being legislation.

Mr. CULLOP. Mr. Chairman, the point of order comes too late; action had already been taken.

The CHAIRMAN. The gentleman from South Carolina raises the point of order against the amendment, and it occurs to the Chair that the gentleman from South Carolina is a little late, because the Chair looked around to see whether anybody rose, and then the gentleman from Illinois requested that the amendment be again reported.

Mr. JOHNSON of South Carolina. Mr. Chairman, I did not at first understand the reading of the amendment. The gentleman from Illinois asked for the reading a second time, and then I made the point of order as soon as I knew what it was.

Mr. BURLESON. Mr. Chairman, the gentleman from South Carolina was laboring under the apprehension that it was the same amendment that had been heretofore offered and to which the point of order had been made and overruled, and consequently he did not make it at first, but did as soon as he understood the purport of it.

Mr. MANN. Mr. Chairman, while I think the point of order was made too late, I did not make a point of order that it was too late.

The CHAIRMAN. It seems to the Chair that as to this question of a point of order being made too late it ought to be liberally construed, so that the House may have the benefit of the point of order if it is well taken, and the Chair in this case will hold that the point of order was made in time. The Chair does not pass upon the validity of the point of order, but holds that it was in time.

Mr. BARTLETT. Mr. Chairman, I did not make the point that the point of order came too late, because I understand how those things occur, and sometimes in the confusion Members do not understand the purport of the amendment offered. I admit frankly that it is legislation, and the purpose of it is to repeal that which is now law under the order of the President. I do not know, but I think it will reduce expenditures. So far as I am now concerned, Mr. Chairman, I am free to say that it is legislation upon this bill. There is no question about it, and I intended it to be legislation.

Mr. MANN. Mr. Chairman, Rule XXI provides in effect that an amendment is in order which shall retrench the expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill.

While it is clear that the amendment offered by the gentleman from Georgia is subject to a point of order, still if the gentleman from Georgia will offer an amendment reducing the \$12,000 of this appropriation to \$11,999, provided, etc., his

proposition will be in order under the Holman rule and under the repeated decisions of the Chair. I would like very much to aid the gentleman from Georgia in getting the proposition clearly before the House. I would like to know whether gentlemen on that side of the House who for the next few years will be engaged in telling applicants for office that they would appoint them if they could, but a cruel President forbids them the opportunity of recommending any man for these offices, will have the nerve when they have the chance given them of becoming job hunters instead of statesmen.

Mr. BARTLETT. Mr. Chairman, if I may be heard for a moment, I do not speak for anybody but myself, and I stand here to say right now that if the point of order is withdrawn I am ready to vote for this amendment. I offered it with the hope that I might have an opportunity to vote for the amendment to revoke and repeal this order which was enacted or passed on the 15th of October, 1912, about 15 days before the election, placing the fourth-class postmasters under the civil-service law. Now, I have not been a job hunter since I have been a Member of Congress.

Mr. MANN. The gentleman from Georgia has been and is a distinguished statesman, and I hope we will enable him to preserve that attitude.

Mr. BARTLETT. I have not been a distinguished statesman, and I have not aspired to that category. I have endeavored during the 18 years of service, two of which were during the last Democratic administration, to do the best in my ability, but then I was not a place hunter.

But, Mr. Chairman, we have this as the history of placing fourth-class postmasters under the civil-service law. It is a well-known fact in this country that the delegates to the Republican presidential nominating conventions from the South are composed, generally, of the postmasters and the United States officeholders in that section of the country, and a roll call of the delegates at any presidential convention of the Republican Party for the past few years would have been like calling the roll of the postmasters in the South. We believe they were placed in the classified service for political reasons and we believe that they were covered recently into the civil service in order to take care of political favorites, and I for one am ready to vote to repeal an order passed as this was done, for the purpose for which it was passed, to give the people I represent and the section from which I come an opportunity for once in 14 or 16 years to have some voice in the selection of the fourth-class postmasters, which they have not had for that period of time.

The CHAIRMAN. The Chair is ready to rule. It is not contended by anyone that this puts a limitation on appropriations or that it comes within what is known as the Holman rule. It is a clear change of existing law and is therefore subject to the point of order. The Chair sustains the point of order, and the Clerk will read.

The Clerk read as follows:

Office of chief clerk and superintendent: Chief clerk, including \$300 as superintendent of Treasury Building, who shall be the chief executive officer of the department and who may be designated by the Secretary of the Treasury to sign official papers and documents during the temporary absence of the Secretary and the Assistant Secretaries of the department, \$4,000; assistant superintendent of Treasury Building, \$2,500; clerks—4 of class 4, 1 of class 3, 2 of class 2, 2 of class 1, one \$1,000, one \$900; 2 messengers; 3 assistant messengers; messenger boy, \$360; storekeeper, \$1,200; telegraph operator, \$1,200; telephone operator and assistant telegraph operator, \$1,200; chief engineer, \$1,400; 3 assistant engineers, at \$1,000 each; 8 elevator conductors, at \$720 each, and the use of laborers as relief elevator conductors during rush hours is authorized; 8 firemen; coal passer, \$500; locksmith and electrician, \$1,400; captain of the watch, \$1,400; two lieutenants of the watch, at \$900 each; 65 watchmen; foreman of laborers, \$1,000; skilled laborers—2 at \$840 each, 2 at \$720 each; wiremen—1, \$900; electrician, \$1,200; 34 laborers; 10 laborers, at \$500 each; 1 plumber and 1 painter, at \$1,100 each; plumber's assistant, \$720; 85 charwomen; carpenters—2 at \$1,000 each; 1, \$720. For the Winder Building: Engineer, \$1,000; 3 firemen; conductor of elevator, \$720; 4 watchmen; 3 laborers, 1 of whom, when necessary, shall assist and relieve the conductor of elevator; laborer, \$480; 8 charwomen. For the Cox Building, 1709 New York Avenue: Two watchmen-firemen, at \$720 each; one laborer; in all, \$170,960.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on the provision in line 10, page 35. I notice this bill carries a provision for an electrician, which is a new office. I would be glad to have the chairman explain the reason for this new office.

Mr. JOHNSON of South Carolina. Mr. Chairman, the current law provides for one wireman at \$1,000 a year. The testimony before the committee was that the man was a very efficient one. They desire to promote him from \$1,000 a year to \$1,200 a year because he is an expert, and to change his designation. In view of the fact that the Treasury Department has reduced its force by several hundred employees, the committee felt that when that department came before the committee and requested that a man's salary be advanced, giving good reasons

therefor, we ought to do something for them. If the gentleman from Illinois desires to assume the responsibility of keeping this workman up here in the Treasury Department, who is now receiving the salary of \$1,000 and is very efficient and worthy, from having an increase to \$1,200 we shall have to submit.

Mr. FOWLER. Mr. Chairman, I will be very glad to know why the committee did not increase the salary of the two skilled laborers who are receiving a salary of \$840 a year and the two at \$720 a year?

Mr. JOHNSON of South Carolina. Because there was nothing brought before the committee. There was no request that their salaries be increased, and no testimony given to the committee which would have justified the committee in increasing their salaries.

Mr. FOWLER. Mr. Chairman, I will be very glad to leave the \$1,200 as it stands, if the committee would increase the salaries of these two skilled laborers.

Mr. JOHNSON of South Carolina. Mr. Chairman, we can not do that. The gentleman understands there are 30,000 employees in the city of Washington, and the committee can have no knowledge of the efficiency and worth of any particular man unless it is brought to the attention of the committee. We do not know who these men are. They are presumably getting what they are worth.

Mr. FOWLER. Mr. Chairman, I will be very glad to say that I am in favor of increasing the salaries of these low-salaried people. They have been working for a long time at a bare subsistence on a very economical basis, and I have no disposition to hold down the salary of any of these low-salaried men; but I am going to insist that whenever there is an increase it shall cover at least a portion of the low-salaried men, and if it can not be applied to them, whenever there is an attempt to increase the salary of a high-salaried man I shall make the point of order. Inasmuch as this man is a low-salaried man, I shall refrain from making the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order and the Clerk will read.

The Clerk read as follows:

Division of Bookkeeping and Warrants: Chief of division, \$3,500; assistant chief of division, \$2,700; estimate and digest clerk, \$2,500; 2 principal bookkeepers, at \$2,100 each; 12 bookkeepers, at \$2,000 each; clerks—14 of class 4, 6 of class 3, 6 of class 2, 3 of class 1; messenger; 3 assistant messengers; messenger boy, \$480; in all, \$87,180.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on that paragraph.

The CHAIRMAN. Does the gentleman from Illinois reserve the point of order to the paragraph?

Mr. FOWLER. No; to that portion of the paragraph which creates the office of messenger boy. I would be glad to ask the chairman of the committee what necessity there is for a new messenger boy, when the bill carries one messenger and three assistant messengers, the same as has been carried in the bill heretofore?

Mr. JOHNSON of South Carolina. Mr. Chairman, the Division of Bookkeeping and Warrants is unquestionably the most important division in the Treasury Department. It has intimate relations with every other division. It has more intimate and close relations with the Committee on Appropriations than any other division. It is through that division that estimates are all transmitted to the Congress. The work of this office increases from year to year, and we have given them one messenger boy only at \$480 a year. That is the only increase we allowed them, notwithstanding the great volume of work and the great responsibility. The situation is simply this: If we do not give them this messenger boy at \$480 it will be necessary to take some other person who is employed as a clerk or in some other capacity to do the work of carrying papers to the different departments that a boy would do if we allow him.

Mr. FOWLER. Mr. Chairman, if a messenger boy is absolutely necessary, I have no objection to it; but I desire to ask the chairman if the committee unanimously agreed to insert this new legislation?

Mr. JOHNSON of South Carolina. I do not remember there was any opposition whatever in the committee.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

Division of Appointments: Chief of division, \$3,000; assistant chief of division, \$2,000; executive clerk, \$2,000; law and bond clerk, \$2,000; clerks—3 of class 4, 4 of class 3, 5 of class 2, 6 of class 1, 4 at \$1,000 each, 1 \$900; messenger; 2 assistant messengers; in all, \$42,180.

Mr. COX of Indiana. Mr. Chairman, I move to strike out the last word, for the purpose of getting some information from the chairman of the committee. The Committee on Expenditures in the Treasury Department last summer had considerable in-

vestigation in sifting out the contingent funds which Congress appropriated and gave to the Secretary of the Treasury for the purpose of improving conditions in the department. With a part of those funds the Secretary employed a firm in Chicago, I believe by the name of Young & Co., if I recollect correctly. They went through the Treasury Department rather carefully, and that committee recommended the abolishment of this Appointment Division, and I am not sure but what some committee formulated and prepared by the Secretary himself—I mean the employees of the department who were made members of the committee—recommended the same thing. I would like to ask the chairman of the committee now whether or not the committee of which he is a member has investigated that question, with a view of seeing whether or not there is any necessity for the maintenance of this bureau in the Treasury Department, or, in other words, whether it can be abandoned without crippling the service?

Mr. JOHNSON of South Carolina. This division is a very important one, I will say to the gentleman from Indiana. A great number of the people who are employed by the Government are bonded. A large number are under heavy bond. Now, this division not only appoints, sifts out in the various bureaus, and makes these formal appointments, but it keeps the bonds of all these officials. I would say frankly, while we have not directed any special investigation toward the abolishment of this particular division, the Treasury Department has shown such a determination to do away with useless employees and to abolish useless divisions that we have felt inclined to grant them within the bounds of reason what they did ask for. I think that the Treasury Department has reduced the force something like 700 people.

Mr. COX of Indiana. That is true.

Mr. JOHNSON of South Carolina. I do not know how many divisions have been abolished and consolidated, but no information has been brought to the committee that would justify the curtailing of any force for which they have asked.

Mr. COX of Indiana. Well, I desire to know whether or not the committee has made any inquiry along that line?

Mr. JOHNSON of South Carolina. We have not made any specific inquiry as to whether this division should be abolished, and particularly for the reason that the department shows such earnest efforts to do away with useless places.

Mr. COX of Indiana. One of the chief objections that I have observed to this division, as far as I am personally concerned, is, it seems to me, it serves as a rather circuitous route through which employees are procured for the department. If I understand the workings of the machinery in this bureau, if an application is made for an employee that application is made to the appointment division. The appointment division then calls upon the Civil Service Commission, and the Civil Service Commission makes its recommendations to the appointment division, and the appointment division fills the place that may be requested by the department. I was under the impression, while our committee had that matter under investigation, that so far as that part of the work was concerned it could be better served by the heads of the departments themselves than to have it go through the circuitous route that it now takes.

Mr. MANN. Will the gentleman yield?

Mr. COX of Indiana. I do.

Mr. MANN. Is not it a fact that the appointment division keeps the roster of the employees of the whole department, and that all promotions and every change in position goes through the appointment division?

Mr. COX of Indiana. That is true; and for that very reason before our committee last summer there was some very stringent criticism on it.

Mr. MANN. That may be.

Mr. COX of Indiana. And the criticism that seemed to our committee pertinent was, as I recall it now—it has been some time since I refreshed my memory on it—that the appointment division did not know the employees who really were entitled to promotion as well as the chiefs of bureaus themselves did.

Mr. MANN. As I understand, the chiefs of the bureaus make their recommendations, the matter is taken up by the appointment division, and questions in reference to efficiency are considered, and the appointment division lays those matters before the Assistant Secretary of the Treasury who has charge of those matters. The gentleman knows that Mr. Lyman, who is at the head of this division, was formerly Civil Service Commissioner under Mr. Cleveland?

Mr. COX of Indiana. And that very reason is what brought on some considerable criticism.

Mr. MANN. No doubt there has been a good deal of criticism of the appointments of the division, but I think it was because

it was not responsive enough in the opinion of certain gentlemen to political pressure.

Mr. COX of Indiana. The criticism was that when a recommendation was made to the chief of the bureau to this appointment division for promotion, sometimes the recommendation would be turned down by the appointment division, and that brought about some considerable criticism before our committee.

Mr. MANN. The gentleman understands that in many of these places it is almost impossible for the head of the division to determine in reference to the appointment without its going through somebody else's hands, of course. I do not know whether the appointment division is necessary or not. I do not see how the appointment division could be maintained in control of that part of it without having control of the calling upon the Civil Service Commission for original appointments.

Mr. COX of Indiana. That is what I recollect as being the chief criticism so far as that was concerned. This appointment division, if I recollect, has something to do with the collection of internal revenue or the payment of salaries in the internal-revenue department. Is that correct?

Mr. JOHNSON of South Carolina. The division of appointments under the order of the Secretary of the Treasury audits the accounts of the customs service, which amount to \$10,000,000 a year.

Mr. COX of Indiana. When you speak of the auditing of the accounts, that is the auditing of the salaries of the employees in the service?

Mr. JOHNSON of South Carolina. And other expenditures. The total expenditures of the customs service, amounting to \$10,000,000, are audited in this division.

Mr. COX of Indiana. Did the gentleman have any thought in this connection, whether this particular branch of that work would not be better served by turning it over to the customs department of the Government?

Mr. JOHNSON of South Carolina. During the last Congress the question of auditing the claims against the Government received very careful consideration at the hands of the Committee on Appropriations, because we found in many of the disbursing offices of the Government an auditing system had grown up. In other words, disbursing officers had gathered around them a sufficient force to transpose an ordinary disbursing office into an auditing office. So we went into the question of administrative audit with the departments of the Government, and in the last legislative bill provided there should be an administrative audit and that the disbursing officers should discharge the functions of disbursing officers. And we think we saved a great deal. And this since the last session of Congress has been the division that gives the administrative audits of the customs service.

Mr. COX of Indiana. I will state to the Chairman what was said. I do not know anything about it. I am simply asking for information. The criticism came from Mr. Young, expert accountant, that it should be abolished, and that it would effect an economy of \$40,000. And then another criticism came because of the circuitous route through which these appointments were made, and that the auditing in the payment of accounts growing out of the Internal-Revenue Service was in the customs service itself, but I do not know. I am stating now my recollection that some of the committee down there—I think a committee of five, or two out of three—reported at one time that it should be abolished, but I think the gentleman is right in saying that the Secretary himself did not approve of that committee of three. At least, if I recall correctly, his spokesman, if I remember right, Mr. Wilmett, said it would not bring about any economy. So I simply wanted to get the gentleman's opinion about it, and as to whether they had looked into it with the view of abolishing it.

The Clerk read as follows:

The services of skilled draftsmen, and such other technical services as the Secretary of the Treasury may deem necessary, may be employed only in the Division of Revenue-Cutter Service in connection with the construction and repair of revenue cutters, to be paid from the appropriation "Repairs to revenue cutters": *Provided*, That the expenditures on this account for the fiscal year 1914 shall not exceed \$3,400. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the last paragraph read by the Clerk.

Mr. MANN. I do not expect to make the point of order. This provision, apparently, is contemplated to remain as per-

manent law, except the proviso. I do not know, but ordinarily a provision of this sort in the bill would apply only to the fiscal year in which the appropriation is made, and you limit that to \$3,400. That is all right. Then you go ahead with a provision that "a statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates." That would seem to contemplate a permanent provision of law, without any limitation in it at all, because the limitation of amount applies only to the fiscal year ending June 30, 1914. Do you want to make a provision of this sort, which has no limitation in it at all?

Mr. JOHNSON of South Carolina. Mr. Chairman, I would say that that contemplates an annual appropriation under the Chief of Engineers.

Mr. MANN. I understand that. They have some work. They are constructing some revenue cutters.

Mr. JOHNSON of South Carolina. They have some construction work to do in connection with the Revenue-Cutter Service. The gentleman who appeared before the committee—whether an Army officer or otherwise I am not sure—

Mr. MANN. He is not an Army engineer. I suppose it was the chief of the Revenue-Cutter Service.

Mr. JOHNSON of South Carolina. He said that the plans must be made.

Mr. MANN. I am calling the attention of the gentleman from South Carolina to this proviso, limiting the amount to be expended to \$3,400. But if this is a permanent provision of law, then there is no limitation hereafter.

Mr. JOHNSON of South Carolina. It is just like the provision that has been in the bill for 25 years. It is a lump-sum appropriation, and we require them to specify in each bill how much they have.

Mr. MANN. Is this in the current law?

Mr. JOHNSON of South Carolina. A similar provision is found elsewhere in the bill under the Chief of Engineers.

Mr. MANN. Here is the point about this: An item similar to this occurs in various branches of the service, where it is necessary to have it every year; but it is not necessary to have this every year in the Revenue-Cutter Service, I think.

Mr. JOHNSON of South Carolina. If they do not ask for it, we shall not appropriate it.

Mr. MANN. You do not have to appropriate at all. You have that permanent provision of law here, which does not require any appropriation. That is what I am calling to the gentleman's attention—that it is wholly outside the control of the Committee on Appropriations. If the policy of the committee is to expect to cover this every year, it is immaterial to me; but if you do not put this item in every year, mind you, and there were any appropriations for the repair of revenue cutters, they could transfer just as much as they pleased, because there is no limitation upon it.

Mr. JOHNSON of South Carolina. I will read to the gentleman what Mr. Allen said about it. He said:

In January, 1912, we abolished an office in Baltimore in which we had a draftsman, an assistant draftsman, and a clerk. They were handling the drafting work connected with repairs of revenue cutters. We thought we could do without them, but after trying it we find we can not. This new provision is drawn to correspond with one which appears in the naval appropriation bill each year. It will permit us to pay not to exceed \$3,400 for drafting and other services in connection with revenue-cutter work.

Mr. JOHNSON. There is no increase in the appropriation?

Mr. ALLEN. No increase. It simply enables us to expend from the appropriation for repairs this amount of money, which is required in making blue prints and kindred work. I do not think the work will be continuous or that we will have to spend \$3,400. We ask that because it was what it approximately cost us in Baltimore.

Mr. MANN. Well, he says he does not think the work will be continuous. Mr. Allen did not explain to you the real reason. I will. Probably he did not think about it, or was not aware of it; I do not know. But under the law appropriations for the construction of revenue cutters can not be used for the payment of employees in the District of Columbia for this kind of work. The money could be used over in Baltimore and the office was over in Baltimore. Then they brought the office over here, and it is very proper that the amount necessary for the repair of vessels of the Revenue-Cutter Service should be used for that purpose. But under your provision that goes into the permanent law. They do not have to ask you for it hereafter.

Mr. JOHNSON of South Carolina. The clerk to the committee, who understands these matters thoroughly, says that this item is identical with a number of others that we carry every year, and of course the gentleman from Illinois understands that this item will be carried from year to year, because, as I stated, this work was hitherto done in Baltimore and paid for out of appropriations for the Revenue-Cutter Service.

If we are going to use the money for the Revenue-Cutter Service in the District of Columbia there must be a specific authorization to that effect in order to make it law. Now, if they determine to dispense with the services of anybody in the city of Washington hereafter, then the estimates that come down to the Congress will not contain that item.

Mr. MANN. I think I will try to make myself more clear to the committee. Two or three years ago we made an appropriation for two new revenue cutters, with a limitation of cost. That limitation of cost is supposed to cover all of this work. The office was maintained outside of the District of Columbia, and there was no authority to maintain anybody inside of the District of Columbia for that work, except by specific authority of Congress. Now, under this provision hereafter, if it remains permanent law, whatever the Committee on Appropriations may do, the limit of cost will not cover the services of skilled draftsmen and other technical services in connection with the construction of these new revenue cutters, but that will be paid out of the appropriation for repairs to the revenue cutters. That is not a very desirable thing to do. However, I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order. The Clerk will read.

The Clerk read as follows:

Division of Mail and Files: Superintendent of Mail, \$2,500; registry clerk, \$1,800; distributing clerk, \$1,400; clerks—1 of class 2, 1 of class 1, 1 \$1,000; mail messenger, \$1,200; 2 assistant messengers; messenger boy, \$360; in all, \$12,300.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on the paragraph. I desire to inquire of the chairman of the committee why you increased the mail messenger's salary from \$1,000 to \$1,200?

Mr. JOHNSON of South Carolina. His salary was \$1,200. In submitting the estimates for the present fiscal year, by a mistake made by somebody, the estimate was made to call for a salary of only \$1,000. We provided in the law for the present year that his salary should be \$1,000, thereby reducing the salary \$200 on account of the mistake in the estimates.

Mr. FOWLER. But it is increased \$200 in this bill.

Mr. JOHNSON of South Carolina. As I have said, his salary for last year was \$1,200. The Treasury Department, in sending the estimates to Congress, called for a salary for this man of \$1,000, reducing the salary \$200 by inadvertence. The committee made the appropriation for the current year only \$1,000. It was purely a mistake, and we are simply putting the salary back to what it formerly was and to what it was intended to be.

Mr. FOWLER. I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order, and the Clerk will read.

The Clerk read as follows:

Office of the Supervising Architect: Supervising Architect, \$5,000; executive officer, \$3,250; technical officer (in lieu of chief, technical division, transferred from salary roll, sundry civil act), \$3,000; drafting division—superintendent (in lieu of chief constructor), \$3,000; assistant superintendent (in lieu of assistant constructor, transferred from salary roll, general expenses, sundry civil act), \$2,750; superintendent, computing division (in lieu of chief computer), \$2,750; mechanical engineering division—superintendent (in lieu of chief mechanical and electrical engineer), \$2,750; assistant superintendent (in lieu of mechanical engineer acting as assistant chief mechanical and electrical engineer, transferred from general expenses, sundry civil act), \$2,400; structural division—superintendent (in lieu of chief structural engineer, transferred from salary roll, general expenses, sundry civil act), \$2,750; assistant superintendent (in lieu of assistant chief structural engineer, transferred from salary roll, general expenses, sundry civil act), \$2,400; superintendent, repairs division (in lieu of architectural draftsman, acting as chief, repairs division, transferred from general expenses, sundry civil act), \$2,400; superintendent, accounts division (in lieu of chief of accounts division), \$2,500; superintendent, maintenance division (in lieu of chief of maintenance division), \$2,500; files and records division—chief, \$2,500; assistant chief (transferred from salary roll, general expenses, sundry civil act), \$2,250; head draftsman (in lieu of principal draftsman, transferred from general expenses, sundry civil act), \$2,500; inspectors—5 at \$2,300 each (transferred from salary roll, general expenses, sundry civil act), 4 at \$2,190 each, 3 at \$2,000 each (transferred from salary roll, general expenses, sundry civil act), 2 at \$1,800 each (1 transferred from salary roll, general expenses, sundry civil act); inspectors of supplies—1 at \$2,300 (transferred from salary roll, general expenses, sundry civil act), 1 \$1,800 (transferred from salary roll, general expenses, sundry civil act); administrative clerks—6 at \$2,000 each (transferred from salary roll, general expenses, sundry civil act); technical clerks—4 at \$1,800 each; clerks—8 of class 4, additional to 1 of class 4 as bookkeeper, \$100; 4 at \$1,700 each, 13 of class 3, 6 at \$1,500 each, 13 of class 2, 8 at \$1,300 each, 13 of class 1, 4 at \$1,100 each, 6 at \$1,000 each, 3 at \$900 each, 2 at \$840 each; photographer (transferred from salary roll, general expenses, sundry civil act), \$2,000; foreman, duplicating gallery, \$1,800; 2 duplicating paper chemists at \$1,200 each (1 transferred from salary roll, general expenses, sundry civil act, and 1 formerly clerk of class 1); foreman, vault, safe, and lock shop (transferred from salary roll, general expenses, sundry civil act), \$1,100; 4 messengers; 2 assistant messengers (1 transferred from salary roll, general expenses, sundry civil act); messenger boys—3 at \$480 each (transferred from salary roll, general expenses, sundry civil act), 2 at \$360 each (transferred from

salary roll, general expenses, sundry civil act); skilled laborers—4 at \$1,000 each (transferred from salary roll, general expenses, sundry civil act), 7 at \$960 each (transferred from salary roll, general expenses, sundry civil act), 1 \$900 (transferred from salary roll, general expenses, sundry civil act), 1 \$840 (transferred from salary roll, general expenses, sundry civil act); laborers—1 \$660, 1 \$600 (transferred from salary roll, general expenses, sundry civil act); in all, \$235,920.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

Mr. FOWLER. I desire to reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] reserves a point of order.

Mr. MANN. Perhaps we had better dispose of the point of order first.

Mr. JOHNSON of South Carolina. Does the gentleman make the point of order?

Mr. FOWLER. No; I do not make the point. I reserve it.

Mr. JOHNSON of South Carolina. It is not subject to a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois has not stated the ground of his point of order.

Mr. FOWLER. I reserved the point of order. I did not want to take the floor away from the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is no longer seeking the floor, and the Chair was trying to settle the point of order. What is the point of order?

Mr. FOWLER. I desire to know the reason for the increases of various salaries in this paragraph.

Mr. JOHNSON of South Carolina. There is not an increase of a salary in the paragraph. Heretofore a certain part of the force in the Supervising Architect's Office has been paid out of appropriations made in the legislative bill and another part of his force was paid out of appropriations made in the sundry civil bill. The last sundry civil act required that hereafter all persons who were paid out of the lump sums in the sundry civil bill shall be appropriated for in the legislative bill. So we have simply consolidated the two forces, as we are required to do by law. Not a single additional person has been provided for and not a single salary has been increased. They asked us to do both, both of which we refused to do.

Mr. FOWLER. In line 19, page 38, I see that the salary of the drafting superintendent is \$3,000, and it was carried in the last bill at \$2,750.

Mr. JOHNSON of South Carolina. The gentleman will find, if he examines that item, that the superintendent carried in this bill is the chief constructor, who was paid \$3,000.

Mr. FOWLER. Yes; but there was a drafting division, and the superintendent thereof in the last bill was paid a salary of \$2,750.

Mr. JOHNSON of South Carolina. The amount that is carried here at \$3,000 is carried in the last bill at \$3,000 under the words "chief constructor."

Mr. FOWLER. Then on the same page, line 21, under a heading of "General expenses," there was transferred from the salary roll one of the assistants who was drawing \$2,500, and under this appropriation in this bill he is given \$2,750.

Mr. JOHNSON of South Carolina. He was carried in the last bill as an assistant constructor at \$2,750, just what we have given him here.

Mr. FOWLER. In the other bill it was an assistant superintendent, and he only drew \$2,500. Now it is proposed to give him \$2,750.

Mr. JOHNSON of South Carolina. There is the law on page 202, assistant constructor, \$2,750.

Mr. FOWLER. And here he is assistant superintendent.

Mr. JOHNSON of South Carolina. He was carried in the last bill under the words "assistant constructor." We call it assistant superintendent instead of assistant constructor, but I state to the gentleman from Illinois that we have not changed a single salary in the paragraph.

Mr. FOWLER. Then how does the gentleman account for the increased appropriation?

Mr. JOHNSON of South Carolina. There is no increase.

Mr. FOWLER. In the last bill it was \$228,620 and now it is \$235,920, according to this bill.

Mr. JOHNSON of South Carolina. I thought I had explained to the gentleman that there were two forces in the Supervising Architect's Office; one part of the force was paid out of appropriations in this bill—the legislative bill—and the other part of the forces was paid out of appropriations in the sundry civil bill. The last sundry civil bill required that these forces should be consolidated, and that hereafter they should all be carried specifically in the legislative bill. So that this bill now

before the committee carries two forces that have hitherto been carried in that office under the two appropriations. But I state to the gentleman that not a single dollar is added to any salary and not a single person is added to the force.

Mr. FOWLER. Mr. Chairman, with the explanation given, I withdraw the point of order.

Mr. MANN. Mr. Chairman, as a matter of information I want to ask the gentleman a question or two. On page 39, at the end of line 3, commences the item "Structural division—superintendent (in lieu of chief structural engineer transferred from salary roll, general expenses, sundry civil act), \$2,750." As a matter of fact, that man is not transferred from the sundry civil roll, is he? Is he not the same as the structural engineer carried in the appropriation bill?

Mr. JOHNSON of South Carolina. They were paid out of a lump sum. They were specifically appropriated for in the sundry civil bill while a great many were paid out of a lump sum.

Mr. MANN. But we specifically provided for them in the legislative bill.

Mr. JOHNSON of South Carolina. Not in this particular.

Mr. MANN. I do not know where you will find anybody that corresponds to the chief structural engineer carried in the legislative bill.

Mr. JOHNSON of South Carolina. He is paid out of a lump-sum appropriation, outside of these two rolls, and he is brought into this bill.

Mr. MANN. Who draws a salary of the present chief structural engineer and the assistant structural engineer?

Mr. JOHNSON of South Carolina. I do not know any individual in the Supervising Architect's Office.

Mr. MANN. I do not mean the individual. We have here a chief structural engineer at \$2,750 and an assistant structural engineer at \$2,400, and these are the identical places carried in your bill, under the head of "Structural division—superintendent (in lieu of chief structural engineer transferred from salary roll, general expenses, sundry civil act), \$2,750, and assistant superintendent (in lieu of assistant chief structural engineer transferred from the salary roll, general expenses, sundry civil act), \$2,400." You say they are transferred from the sundry civil list when they are not.

Mr. JOHNSON of South Carolina. I will say to the gentleman from Illinois that the estimates that came down from the Treasury Department in regard to the consolidation of these two forces was the most complicated thing I ever saw, and the most competent man in Washington—and the gentleman knows to whom I refer—spent several days in unraveling it and getting all the men fixed.

I am perfectly satisfied, and I state it without any hesitation, that this bill as it is now written provides for every man who is provided for in the previous bills and does not provide for any more.

Mr. MANN. I think that is correct. I am not disputing that, but while a very competent man—the competent man—has been over this, still I take the liberty of making a correction even to him. This bill erroneously states that these two places are transferred from the salary roll of the general expense under the sundry civil act, whereas, as a matter of fact, they are both provided for by the current legislative appropriation bill and are not paid out of the sundry civil general expense account at all.

Mr. Chairman, I understand that the point of order was withdrawn.

The CHAIRMAN. The point of order has been withdrawn.

Mr. MANN. Mr. Chairman, I move to strike out the last word. As I understand, this, to a certain extent, remodels the office of the Supervising Architect. Of course, it is true it only brings together men who are paid out of different rolls. What information is the gentleman able to give the House with reference to the progress which the Supervising Architect's Office is making concerning that highly mooted question of the construction of public buildings heretofore authorized? I think it is due to the House that we be informed now what progress is being made by the Supervising Architect's Office, because I take it that we will soon again be up to the question of whether it is necessary for the House, in order to aid the public business in other matters, to pass a new bill providing for additional public buildings.

Mr. JOHNSON of South Carolina. Mr. Chairman, in the interest of my friends who are concerned in public buildings, I inquired of the Supervising Architect, or of some other authority, what progress they were making under the new regulations in regard to using old plans in part, and he stated that without increasing the force they would be able to get out plans much more rapidly than they had hitherto.

Mr. MANN. How many buildings have been already authorized, plans for which have not yet been prepared or begun?

Mr. JOHNSON of South Carolina. I can not answer that question, but quite a number of buildings have been authorized for which no plans have been begun.

Mr. MANN. Are there as many as several hundred?

Mr. JOHNSON of South Carolina. I think there are probably 200 or more.

Mr. MANN. Is the gentleman able to say whether, with the appropriation that is made here, the Supervising Architect's Office will be able to prepare the plans for the buildings already authorized within the next fiscal year?

Mr. JOHNSON of South Carolina. No. He stated that they had been preparing about 90 plans a year, but that under the changed conditions they would be able to get out about 110 with the same force.

Mr. MANN. I take it, then, that the gentleman does not consider it absolutely necessary at this time to authorize the construction of new buildings, except those that may be in the nature of emergencies?

Mr. JOHNSON of South Carolina. I think there are many things of far more pressing importance to this country than the construction of new buildings.

Mr. MANN. I was in hopes that we might get some observation from some member of the Committee on Public Buildings, but I suppose they are so busily engaged in attending to the ordinary duties of that committee, at the committee room, that they are not able to be present on this floor at this time, because I do not see any of them here.

The Clerk read as follows:

Office of Comptroller of the Treasury: Comptroller of the Treasury, \$6,000; Assistant Comptroller of the Treasury, \$4,500; chief clerk, \$2,500; chief law clerk, \$2,500; nine law clerks revising accounts and briefing opinions—one \$2,100, eight at \$2,000 each; expert accountants—six at \$2,000 each; private secretary, \$1,800; clerks—eight of class four, three of class three, one of class two; stenographer and typewriter, \$1,400; typewriter-copyist, \$1,000; two messengers; assistant messenger; laborer; in all, \$73,460.

Mr. COX of Indiana. Mr. Chairman, I reserve the point of order on that portion of the paragraph touching the salary of the Comptroller of the Treasury, \$6,000. My recollection is that the law creating the office fixed that salary at \$5,500, and that his salary was increased, probably at the close of the Sixty-first Congress, by an appropriation committee. I would like to ask the chairman of the committee whether or not he thinks a salary of \$6,000 is really due that office?

Mr. JOHNSON of South Carolina. Mr. Chairman, I believe the salary is fixed by law at \$5,500. It has been increased not by this committee but by some former Congress.

Mr. COX of Indiana. At the close of the Sixty-first Congress, I think, it was increased.

Mr. JOHNSON of South Carolina. This committee is simply carrying the amount, that has been carried. The man who is at the head of that department is a very important man. He is one of the most powerful men connected with the Government so far as the expenditure of the public money is concerned. He must pass upon and construe every act of Congress that authorizes public expenditure, and this committee did not feel justified in undoing what a former Congress had done.

Mr. COX of Indiana. Was the gentleman from South Carolina a member of the Appropriations Committee when this increase was given him?

Mr. JOHNSON of South Carolina. No.

Mr. COX of Indiana. Simply followed the current law of the previous year. That is my understanding of it.

Mr. JOHNSON of South Carolina. Yes.

Mr. COX of Indiana. What does the gentleman really feel as to whether or not the office is worth \$6,000?

Mr. JOHNSON of South Carolina. Well, I think it takes one of the best lawyers connected with the Government service to fill it well.

Mr. COX of Indiana. I quite agree with the gentleman on that. It is a very responsible position, but I do not agree with the plan of increasing the salary in this way on an appropriation act.

Mr. JOHNSON of South Carolina. We have not increased it; we took it as we found it. Of course, it is subject to the point of order.

Mr. COX of Indiana. And I agree the gentleman's committee has not increased it, but it has been increased. Does the gentleman feel it ought to be \$6,000?

Mr. JOHNSON of South Carolina. Well, I think that the man in that place now has certainly earned \$6,000. I do not know who the next man will be. It is a very responsible position.

Mr. COX of Indiana. What I am trying to get at—perhaps I am not putting it to the gentleman in a fair way and manner—is whether or not he feels the salary of \$6,000 is commensurate with his responsibility.

Mr. JOHNSON of South Carolina. Well, certainly a man filling an office of that responsibility ought to have that amount of salary, and I should not care to fill it at all; the responsibility is too great.

Mr. COX of Indiana. Mr. Chairman, I will withdraw the point of order, then.

The Clerk read as follows:

Office of Auditor for War Department: Auditor, \$4,000; assistant and chief clerk, \$2,250; law clerk, \$2,000; chief of division of accounts, \$2,500; chief of division, \$2,000; 2 assistant chiefs of division, at \$1,900 each; chief transportation clerk, \$2,000; clerks—22 of class 4, 49 of class 3, 62 of class 2, 50 of class 1, 9 at \$1,000 each, 3 at \$900 each; skilled laborer, \$900; messenger; 5 assistant messengers; 10 laborers; messenger boy, \$480; in all, \$307,470.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to inquire of the chairman of the committee, on page 42, line 1, what is the necessity for two assistant chiefs of divisions at \$1,900 each, and also chief transportation clerk at \$2,000? All three of these positions are new.

Mr. JOHNSON of South Carolina. Those are new positions. Mr. Chairman, I want to say, if the gentleman desires to make a point of order against this item, that it is subject to the point of order; but I also want to call his attention to the fact that the appropriations for this particular office were reduced in the last year from \$336,750 to \$310,070, or a reduction in round numbers of \$26,700, and 21 people were dropped. There was a saving of \$26,000 and the services of 21 people were dispensed with. Now, as I have said on this floor before, and I repeat now, this department has shown such a commendable zeal in trying to reduce expenditures and to do away with useless employees that when we find them coming back here and asking us for a small increase of salary we feel like giving it to them.

Mr. FOWLER. Well, Mr. Chairman, I commend the gentleman's committee for its great work of retrenchment, but I thought that the work had been done by the force that is already provided for in the last legislative bill. Now here is an increase of three new positions over that of the last bill.

Mr. MANN. Is not there a reduction in this bill from two chiefs of division at \$2,000 to one chief of division?

Mr. JOHNSON of South Carolina. Yes; we drop out one man. We only have one in this bill.

Mr. MANN. There are two in the current law and one in this bill.

Mr. FOWLER. But in this bill there are two assistant chiefs of division.

Mr. MANN. There were two in the current law at \$2,000—that is, chiefs of division—and there is only one in this bill.

Mr. FOWLER. This is current law.

Mr. MANN. In the current law there are two chiefs of division at \$2,000 and in this bill there is only one.

Mr. FOWLER. I am speaking of assistant chiefs of division.

Mr. MANN. At \$1,900? I say they had two chiefs of division and they cut out one and there is only one additional office.

Mr. FOWLER. There were two transportation clerks?

Mr. MANN. No; there were two chiefs of division, and instead of that they drop one and make two assistant chiefs. I would like to say a word about the transportation clerks; I do not know anything about this item.

Mr. FOWLER. I wanted to ascertain the use for this transportation clerk. It seems to be an entirely new position.

Mr. MANN. If the gentleman will permit, for several years, at different times, I have taken up with the War Department the question of the railroad rates paid by that department for transportation. Of course, it is a very complex matter to figure out the railroad rates so as to get the best where you are shipping stuff throughout the United States. I have called the attention—because, I suppose, of my connection with the Committee on Interstate and Foreign Commerce so long on railway matters—of the War Department a number of times to the fact that in some cases the rates that were being paid for freight were probably higher than ought to be paid to secure transportation between two points, although I will say that the transportation branch of the War Department is, I think, exceedingly efficient. But the War Department is shipping both personnel and freight in very large amounts throughout the United States. It becomes extremely important to know whether we get the best rate that is practicable. When these items are passed upon by the War Department they must be audited in the Office of the Auditor for the War Department, and it is extremely important that we have a very efficient force in the auditor's office so that, if improperly or unnecessarily, the War

Department starts in to allow a higher rate of transportation or ships freight over a route where the expense is greater, they will be called down by the auditor's office.

Mr. COX of Indiana. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. COX of Indiana. I do not know whether the gentleman has investigated this phase of the subject or not, nor do I know whether my information is accurate or not, but I have received information to this effect: For instance, the War Department would buy a carload of salt in New York City and ship it to Fort Sam Houston, Tex., where the freight during that haul would actually cost as much or more than the salt would cost; have you ever had occasion to investigate that question?

Mr. MANN. I think that is not the case, but I think this has happened: For instance, when the troops were ordered to Texas a year or two ago, or whenever it was, I ascertained that there was considerable freight shipped from the various Army posts to Texas, where probably the expense of the freight, together with the original cost, were far greater than would have been the expense of purchasing the material in Texas. Here was the case: The War Department had contracted to purchase, perhaps, hay to be delivered to Fort Sheridan, Chicago. They had purchased a lot of hay, and they had a lot of hay on hand. They had a contract agreeing to take a certain amount of it. Now, that was transferred in various ways to Texas, certainly at some higher expense than would have been the case if they had purchased the hay in Texas, but relieving the Government from responsibility under its contract for failure to carry it out and dispose of the material, which otherwise might have had to be sold at second hand. I investigated that matter in the Quartermaster General's Office, and have been over this freight matter with his office a number of times. It is a very complicated proposition.

Mr. FOWLER. Who has been discharging the duties of this transportation clerk heretofore?

Mr. MANN. Really I am unable to furnish my colleague information on this subject concerning the auditor's office. I do not know. My communications and work have been in connection with the Quartermaster General's Office, which incurred the original liability, but these accounts all have to be audited in the auditor's office. I say it is extremely important that there be an efficient force there, because any mistake that may be made in the Quartermaster General's Office will be corrected in the auditor's office. I do not know who occupies the place, nor am I familiar with the force in the office which has to do with that subject.

Mr. FOWLER. I can not understand the use of a transportation clerk in this department.

Mr. MANN. Well, this transportation clerk, I suppose—certainly of the office—has to audit all the freight bills of the War Department, an extremely complicated proposition. If the War Department wants to ship freight from Chicago to Omaha, or from Chicago to Texas, or anywhere else throughout the country, first you have the land-grant railroads that have to be taken into consideration, where you get a cheaper rate of freight. Then perhaps it is cheaper to ship by one route than another. Then there is a quarrel all the time as to classification of freight, and the War Department succeeds every once in a while in having the classification changed in the interest of the Government, and, on the other hand, the railroads are frequently seeking to change the classification of freight so as to put freight in a higher classification and charge more. Now, all these cases have to be figured out by the auditor's office as well as by the Quartermaster General's office, because the auditor has to audit these claims.

Mr. JOHNSON of South Carolina. I will give the gentleman in concrete form just what the difference is between the proposed bill and the current law. In the office of the Auditor for the War Department an assistant and chief clerk, at \$2,250, is provided for instead of a chief clerk and chief of division at the same salary; a chief of division, at \$2,000; two assistant chiefs of division, at \$1,900 each; and a chief transportation clerk, at \$2,000, are provided for instead of two chiefs of division, at \$2,000—that is one of these men who is taken care of under another designation—and two clerks, at \$1,800 each; and a reduction is made of one clerk, at \$1,000, and two clerks, at \$900 each, so that the appropriation in this bill is \$307,470, while in the current law it is \$310,070.

Mr. FOWLER. I know.

Mr. JOHNSON of South Carolina. We reduced that office \$26,750 this year below the figures of last year, and notwithstanding these slight changes here we are reducing it this year about \$3,000.

Mr. FOWLER. You reduced the number of clerks in class 4 from 24 to 22?

Mr. JOHNSON of South Carolina. Yes. They get \$1,800 each.

Mr. FOWLER. And you reduced from 10 to 9 the number of clerks drawing \$1,000 each, and from 5 to 3 the number of clerks drawing \$900 each?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. FOWLER. I congratulate the gentleman on the good service, but I could not understand the reason for this chief transportation clerk especially, and I do not yet.

Mr. JOHNSON of South Carolina. The gentleman from Illinois [Mr. MANN] has explained to his colleague that the transportation question is a very large question with the United States Government, and particularly with the War Department.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The Clerk will read.

The Clerk read as follows:

For compensation on a piece-rate basis, to be fixed by the Secretary of the Treasury, of such number of employees as may be necessary to tabulate by the use of mechanical devices the accounts and vouchers of the postal service, \$166,960.

Mr. MANN. I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the paragraph.

Mr. MANN. I understand we authorize the Auditor for the Post Office Department to employ the piecework system in that office at least to a certain extent. How far is it expected that the piecework system is to be inaugurated in the auditor's office and other branches of the Government service, and what is the occasion for departing from the principle that the Government has maintained, as a rule, at least certainly in Washington, of employing competent people to work a certain number of hours a day, without starting in on the principle which is condemned generally by people of having people do work on the piecework basis?

Mr. FOSTER. May I inquire of my colleague whether under this a lump sum is given?

Mr. MANN. Yes.

Mr. FOSTER. And then the Auditor for the Post Office Department or the Secretary of the Treasury fixes the amount that should be paid for this piecework?

Mr. MANN. Of course they fix the amount. As I understand, this is done with machinery now. This is the work of tabulating money-order returns and money orders, I suppose. But is there a good reason for our starting in to establish the piecework system in the Government service? I think we have not done it in the Census Office, although the work there is very similar.

Mr. FOSTER. Is it the gentleman's idea, then, that in operating these machines they should be operated by persons who are employed on a yearly salary instead of by the piecework system?

Mr. MANN. Yes; that is on one side of it, and the piecework system is on the other side.

Mr. FOSTER. Is it possible that these machines are not operated continuously, and for that reason it might be more convenient and economical to use the piecework system?

Mr. MANN. Oh, no. These machines are operated just as continuously as machines in any other branch of the service are operated. This is the operating work, I understand, of the money-order division, work formerly done by hand under a very poor and long-drawn-out system. This introduces the machine-tabulation system, a very desirable thing to do. But why is it necessary to introduce the piecework system simply because we introduce the machines?

Mr. FOSTER. Like my colleague, I am trying to get some information. As I understand it, they use these tabulating machines in the Census Office.

Mr. MANN. They do not use these machines, but they do use tabulating machines.

Mr. FOSTER. Machines of this kind.

Mr. MANN. They use tabulating machines.

Mr. FOSTER. Are they on a piecework basis?

Mr. MANN. I think not. I do not know whether any of them are. Personally, I doubt the desirability of introducing the piecework basis in the departmental service.

Mr. FOSTER. What is the objection?

Mr. COX of Indiana. What is the objection to putting them on a piecework basis?

Mr. MANN. We have had discussed here and elsewhere, for instance, the Taylor efficiency system.

Mr. COX of Indiana. This does not apply to the Taylor efficiency system, does it?

Mr. MANN. No; but this applies the Taylor efficiency system to us. The inevitable result, where people work upon a piece basis, is that they strain themselves in doing the work, or many of them do, and, as a rule, work that can be fairly measured and compensated by day work is not put on the piece basis and ought not to be.

Mr. COX of Indiana. I take it when the gentleman says they strain themselves in doing piecework that they do it because the more work they do the greater is their pay?

Mr. MANN. Certainly.

Mr. FITZGERALD. I do not believe that is the objection to piecework among mechanics. The objection that labor organizations have had to the piecework system has been that after the rate per unit had been fixed, especially skillful men, who are known as pacemakers, are able to earn what the people in control of the establishment consider to be more than a man in their position of life ought to be paid, and they regulate the rate per unit upon the ability of the pacemaker, so that the average man and the man a little below the average is unable to earn reasonable compensation for his work. That is the objection that mechanics and labor unions usually have to the piecework system.

Mr. MANN. The gentleman is correct, but I did not quite finish my statement. Some people absolutely strain themselves under a piecework system, and through that and through personal adeptness are able to turn out a large amount of work. Others are told that they ought to be able to do as well. If they do as well, the result is a decrease in the compensation per piece, and if they do not do as well they are apt to be fired from the service.

Mr. BUCHANAN. I should like to ask the gentleman in charge of the bill, When did the Government establish a piecework system of this sort and why was it done?

Mr. JOHNSON of South Carolina. Piecework has been going on in this particular department for two or three years, I think.

When the Auditor for the Post Office Department was before the Committee on Appropriations he was asking that annual leave be extended to people engaged in this piecework, and this bill extends it to them. This question was asked Mr. Kram:

Mr. GILLET. Has this piece system worked well?

Mr. KRAM. It has been very satisfactory. An analysis of the pay rolls shows that the average compensation paid employees transferred from the salary roll to the piece-rate basis has been increased 15 per cent as a result of the transfer. On the other hand, the increased output of work has reduced the cost of key-punching cards from 24 cents per hundred to 15 cents per hundred, resulting in a net saving to the Government of approximately 36 per cent.

Mr. BAILEY. There was a decrease of \$100,120 last year in that office.

So that under the piecework system, as it is in operation in the auditor's office, the employees have increased their earnings 15 per cent and the Government has had a saving of 36 per cent.

Mr. BUCHANAN. Is there any other reason? Is it due to the piecework system that this result has been obtained? I hardly see how the compensation of employees could be increased to that extent and the cost of the work reduced to that extent as a result of the piecework basis. It must be due to some new methods of doing the work or something of that kind.

Mr. JOHNSON of South Carolina. The labor-saving devices I have never seen, but these people are not complaining.

Mr. BUCHANAN. I am opposed to the Government establishing a piece-rate system without there is some special reason, because a piece-rate system, as a general thing, has proved to be to the disadvantage of the working people. Wherever it has been changed from piecework to day wages the employees as a rule are satisfied, and it has been at their request.

Mr. JOHNSON of South Carolina. I will call the gentleman's attention to the fact that we are not inaugurating the system.

Mr. BUCHANAN. There can be no good results from the piecework system.

Mr. FITZGERALD. This does not set a precedent. The Government pays on the piece-rate system in a number of departments. In the Government yards in a number of lines the mechanics were paid on a piece-rate basis. At first they were reluctant to have it established, but now they are heartily in favor of it. The reason is that the same changes and conditions were not common in Government employment that has been common in private establishments. It seemed to the committee that this was one of those exceptional cases in the auditor's office and the Post Office Department. This applies only to those employed on the auditing of the money-order receipts. The result has been that instead of taking nine months from the time the money order was issued to complete the audit they are now completed in about three months. I

do not understand that there is any objection whatever on the part of the employees.

Mr. JOHNSON of South Carolina. We have heard no complaint whatever from any employee who is working on a piecework basis. There are many people so employed in the Government Printing Office, in the Bureau of Engraving and Printing, in the navy yard, and all through the Government service, and we have had no complaint.

The Clerk read as follows:

The Secretary of the Treasury may, during the fiscal year 1914, in his discretion, diminish the number of positions of the several grades below the grade of clerk at \$1,000 per annum in the office of the Auditor for the Post Office Department and use the unexpended balances of the appropriations for the positions so diminished as a fund to pay, on a piece-rate basis, to be fixed by the Secretary of the Treasury, the compensation of such number of employees as may be necessary to tabulate, by the use of mechanical devices, the accounts and vouchers of the postal service.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman for information in relation to tabulating machines, whether it is intended to purchase them or whether they are to be used by the Government for an annual rental?

Mr. JOHNSON of South Carolina. We buy some and we rent others. We are carrying in this bill—and have been carrying for a number of years—an item under the Census Office authorizing them to make experiments in developing calculating machines. In the taking of the last census we purchased outright and acquired many machines at very much less expense than 10 years before it had cost us to rent them. In 1900 it cost about \$400,000 to rent the machines that were used in the tabulation of the census returns. In 1910, under this system of appropriating from year to year a small amount of money for developing these tabulating machines, we are able, for something over \$300,000, to develop and buy the machines that were needed.

The machines that are used in the Census Office for the purpose of enumerating the population will be used in the Auditor's Office for the Interior Department in auditing pension checks.

Mr. FOSTER. Does the gentleman know about the value of those machines?

Mr. JOHNSON of South Carolina. No; I am not familiar with their value. I believe where we can not buy and must rent that the rental is excessive, and that is why the Government is trying to develop and improve machines.

Mr. FOSTER. The hearings show that \$480 was paid as an annual rental for certain machines and \$240 for others. Did the committee get any information as to the value of those machines?

Mr. JOHNSON of South Carolina. No; we have not the information to enable us to state accurately what one of these machines would be worth on the market if sold. Unfortunately they are not sold; they are protected by patents; and the owners refuse to sell and the Government is obliged to rent. In these cases I am satisfied that the rental is excessive.

Mr. FOSTER. Are there no other tabulating machines except these that they rent that are successful?

Mr. JOHNSON of South Carolina. There are many devices. I am not familiar with them, but all the time improvements are in progress.

Mr. FOSTER. There is no particular competition in reference to renting these machines, but the department, I suppose, selects the kind that they believe best adapted to the purpose.

Mr. JOHNSON of South Carolina. They select the machines best adapted to the purpose in hand.

Mr. FOSTER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Office of the Commissioner of Internal Revenue: Commissioner of Internal Revenue, \$6,000; deputy commissioner, \$4,000; deputy commissioner, \$3,600; chemists—chief \$3,000, 1 \$2,500; assistant chemists—2 at \$1,800 each, 1 \$1,600, 1 \$1,400; heads of divisions—4 at \$2,500 each, 5 at \$2,250 each; superintendent of stamp vault, \$2,000; private secretary, \$1,800; clerks—3 at \$2,000 each, 31 of class 4, 27 of class 3, 41 of class 2, 40 of class 1, 32 at \$1,000 each, 42 at \$900 each; 4 messengers; 21 assistant messengers; 16 laborers; in all, \$359,990.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on this paragraph. I shall confine it to some specific parts. I desire to ask the chairman of the committee the necessity for creating a chief chemist and an assistant chemist?

Mr. JOHNSON of South Carolina. They are simply brought from another place.

Mr. FOWLER. But the chemist in the last appropriation bill drew only \$2,500 a year. Then there was another chemist.

Mr. JOHNSON of South Carolina. If the gentleman will look at the copy of the law he has in his hand, he will find that last year there were three short paragraphs providing for

that force, and if he will look in the second paragraph he will find a chief chemist provided for at \$3,000. It is simply a consolidation of all of them, and they are merged into one paragraph.

Mr. FOWLER. That may be true. I am inclined to think the gentleman is correct about that. I desire, however, to further ask why it is that there is an increase in the force.

The bill provides for "heads of divisions, four at \$2,500 each." Last year there were provided only three at \$2,500 each.

Mr. JOHNSON of South Carolina. We increased the force in that office by one clerk at \$2,000, one clerk at \$1,800, one clerk at \$1,600, and the salary of the head of one division was increased from \$2,250 to \$2,500.

Mr. FOWLER. What was the occasion for that increase?

Mr. JOHNSON of South Carolina. The occasion for the increase in the office of the Internal Revenue Commissioner is that he has charge of the collection of many millions of revenue. The commissioner stated before the committee that within reasonable limitations for every dollar that we gave him he could increase the revenues many dollars.

Mr. FOWLER. Could he not increase it with a salary of \$2,000 the same as with a salary of \$2,500?

Mr. JOHNSON of South Carolina. We gave one man an increase of \$250. Outside of that there is no increase in anybody's salary. We simply gave him an increase of force.

Mr. FOWLER. I see there is an increase of the force all along.

Mr. JOHNSON of South Carolina. We have not increased the force in the same proportion that the work has been increased.

Mr. FOWLER. There is an increased appropriation of \$23,990 over that of last year.

Mr. JOHNSON of South Carolina. Yes; and the work in that office is very rapidly increasing.

Mr. FOWLER. Which one of the clerks received an increased salary of \$250?

Mr. JOHNSON of South Carolina. It is the clerk that passes on technical matters in that office relating to the collection of over \$150,000,000 a year. He is certainly a man of very great ability. He passes upon the technical matters in that office involved in the collection of \$150,000,000 a year, and we thought he was certainly entitled to the salary that we provide.

Mr. FOWLER. Mr. Chairman, I desire to make the point of order against the increase in the salary of that clerk.

The CHAIRMAN. Does the gentleman withdraw the other point of order?

Mr. FOWLER. I desire to make the point of order against the increase in chief of division. I think there is the creation of a new clerk under the item "Heads of divisions." There were three in the last appropriation bill and four in this at \$2,500.

Mr. JOHNSON of South Carolina. But we have the right to increase the number of men to do the work from year to year. The current law is taken as fixing the salary, and an increase in salary is subject to the point of order. But to give six clerks instead of four is not subject to a point of order; otherwise the governmental service could never grow with the growth of the country.

Mr. FOWLER. Mr. Chairman, I think the whole paragraph is subject to the point of order. If the gentlemen are not willing to point out those increases where there can be a specific point of order made against the increase of salaries, I desire to make the point of order against the whole paragraph. This bill came in at such an hour that it gave no one of the Members of the House an opportunity to make an examination of it in order to point out specifically all of the increases.

Mr. MANN. Mr. Chairman, there is, I believe, authority under the statutes for the appointment of heads of division or chiefs of division. Of course if there be no such authority as that, there is no authority for appropriating for any of these heads of division. Now, what has been done in this case? In the current law there are three heads of division carried at \$2,500 each and six heads of division carried at \$2,250 each. It is quite competent for Congress to increase that to four heads of division at \$2,500 and seven heads of division at \$2,250, because the number of heads of division is not limited by any act of Congress. The Treasury Department having authority under the law to have heads of division, the number is wholly within the control of Congress, and we are not limited by the existing appropriation act as to the number. Now, what has been done by this bill is, in fact, to increase the number of heads of division at \$2,500 by one and decrease the number of heads of division at \$2,250 by one, and it is assumed by gentlemen that there was some one individual who is increased

from \$2,250 to \$2,500. On the contrary, it may be that the Treasury Department proposes to abolish one of the heads of division now existing, which it has the right to do, and provide for a new head of division, which it has a right to do. The items must be considered entirely apart from each other, so far as the bill is concerned. Private information which gentlemen may have which leads them to assume that a particular individual or a particular head of division is to have an increase of salary is not shown on the face of the bill and is not information for the use of the Chairman of the committee on the point of order. We could make this four heads of division at \$2,500 if we can provide for one at all, hence the item is not subject to the point of order.

Mr. JOHNSON of South Carolina. Allow me to interrupt the gentleman. In 1866 Congress specifically authorized seven heads of divisions, at an annual salary of \$2,500, for the Internal Revenue Office, so we are within the law.

Mr. MANN. Well, if the law fixes seven at \$2,500, four certainly comes within the law.

The CHAIRMAN. The Chair understood the gentleman from South Carolina to make the statement that the organic act itself authorizes seven of these heads of divisions.

Mr. MANN. That is my understanding.

Mr. JOHNSON of South Carolina. The statute passed in 1866 authorized seven heads of divisions at \$2,500. We put in this bill only four at that amount.

The CHAIRMAN. It seems to the Chair it is quite clear that if the statute authorizes seven of these heads of divisions it is a mere matter of discretion with Congress as to how many they will create in the different divisions; and if the statute does authorize it, the point of order will not be considered as being well taken.

Mr. FOWLER. Well, Mr. Chairman, there is an increase in the various positions subordinate to the chiefs of divisions.

The CHAIRMAN. The Chair understood the gentleman from Illinois [Mr. FOWLER] to make the point of order upon the ground that on page 48, line 1, the word "four" was inserted instead of the word "three."

Mr. FOWLER. I say I made the point of order against the paragraph and was trying to pick out the specific instances wherein there was an increase, but the bill is so drawn that it is difficult to get at the specific increases at a glance. It has certainly increased the appropriation, which is patent on its face. For instance, in the case of clerks there are three at \$2,000 each, wherein there was only a provision for two. Another class of clerks of the fourth grade are increased from 29 to 31, of the third grade from 25 to 27, and of class 2 from 37 to 41, and of class 1 from 37 to 40. Then, there is an increase of messengers from 3 to 4, which makes it patent upon the face of the bill there is an increase.

The CHAIRMAN. It is the understanding of the Chair there is an increase in the total appropriation on this item, but the point I understood the gentleman from Illinois to make was that he made the point of order that the committee had no right to make these increases.

Mr. FOWLER. No; I am making the point of order against the entire paragraph because of the fact of these increases; there is an increase in the appropriation.

The CHAIRMAN. The Chair is ready to rule on that question. Congress is authorized by the organic act to provide heads of divisions and clerks. It is a mere matter of discretion of the committee as to the number they will carry under each one of these heads. The point of order is overruled.

The Clerk read as follows:

Office of Surgeon General of Public Health Service: Surgeon General, \$6,000; chief clerk, \$2,000; private secretary to the Surgeon General, \$1,800; assistant editor, \$1,800; clerks—3 of class 4, 2 of class 3, 6 of class 2, 1 of whom shall be translator, 7 of class 1, 3 at \$900 each; messenger; 3 assistant messengers; 2 laborers, at \$340 each; in all, \$43,780.

Mr. FOWLER. Mr. Chairman, I make a point of order against this paragraph.

The CHAIRMAN. The gentleman from Illinois makes a point of order against the paragraph—line 23, page 50.

Mr. FOWLER. In line 18 the salary of the Surgeon General is increased from \$5,000 to \$6,000, which is an increase of \$1,000. There is also an assistant private secretary at \$1,800 and then an assistant editor at \$1,800. The assistant editor is a new office. I desire to ask the chairman of the committee the reason for increasing the Surgeon General's salary?

Mr. JOHNSON of South Carolina. Mr. Chairman, I was going to ask the gentleman from Illinois if he did not vote for an act approved August 14, 1912, which passed this House on a Calendar Wednesday, specifically increasing the salary of the Surgeon General from \$5,000 to \$6,000 a year?

Mr. FOWLER. I will ask the gentleman if that was not in an appropriation bill and not in a general bill?

Mr. JOHNSON of South Carolina. It was a special act that came from the Committee on Interstate and Foreign Commerce.

Mr. MANN. I have the act here.

Mr. FITZGERALD. It came up one Saturday afternoon when nobody anticipated it would come up.

Mr. FOWLER. What have you to say about the editor?

Mr. MANN. Mr. Chairman, I probably can answer the question of my colleague from Illinois in reference to the editor, unless the gentleman from South Carolina [Mr. JOHNSON] happens to have the act. The act of Congress changing the name of the Public Health and Marine-Hospital Service to the Public Health Service, which was approved August 14, 1912, contained this language:

There may be employed in the Public Health Service such help as may be provided for from time to time by Congress.

Mr. Chairman, that language has been inserted in laws on several occasions for the express purpose of leaving it to Congress to determine the number of employees, and has been held to be sufficient authority for an item in a bill over a point of order, and that was the purpose of putting it in the law.

Mr. JOHNSON of South Carolina. And the only increase of force that we gave this office under that law was this assistant editor, against which the gentleman's colleague desires to make the point of order.

Mr. MANN. Yes.

Mr. FOWLER. Where is the editor? You have an assistant editor here.

Mr. JOHNSON of South Carolina. One of the commissioned officers in charge of the publication division—

Mr. FOWLER. This is an assistant editor. Where is the editor?

Mr. JOHNSON of South Carolina. He is probably an Army officer.

Mr. MANN. He is a commissioned officer.

Mr. JOHNSON of South Carolina. He is a commissioned officer of this service.

Mr. MANN. One of the medical doctors. They are carried in the sundry civil appropriation bill and not in this.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] withdraw his point of order?

Mr. FOWLER. Mr. Chairman, in view of the explanation made by the gentlemen on the question of the Surgeon General's increase of salary, I withdraw the point of order so far as that is concerned, and desire to make it apply to the creation of an assistant editor, at \$1,800.

The CHAIRMAN. The point of order is not well taken, for the reason that the organic act authorizes Congress to create such help in this department as it may seem proper. It is not a question of the right of the committee, but it is a question of the wisdom of the committee. The point of order is overruled.

The Clerk read as follows:

Contingent expenses, Treasury Department: For stationery for the Treasury Department and its several bureaus and offices, \$50,000, and in addition thereto sums amounting to \$76,000 shall be deducted from other appropriations made for the fiscal year 1913, as follows: Contingent expenses, Independent Treasury, \$6,000; contingent expenses, mint at Philadelphia, \$350; contingent expenses, mint at San Francisco, \$200; contingent expenses, mint at Denver, \$200; contingent expenses, assay office at New York, \$350; materials and miscellaneous expenses, Bureau of Engraving and Printing, \$3,300; suppressing counterfeiting and other crimes, \$200; expenses of Revenue-Cutter Service, \$1,600; Public Health Service, \$1,800; Quarantine Service, \$500; preventing the spread of epidemic diseases, \$200; Life-Saving Service, \$1,000; general expenses of public buildings, \$6,000; collecting the revenue from customs, \$37,300; miscellaneous expenses of collecting internal revenue, \$14,000; and for expenses of collecting the corporation tax, \$3,000; and said sums so deducted shall be credited to and constitute, together with the first-named sum of \$50,000, the total appropriation for stationery for the Treasury Department and its several bureaus and offices for the fiscal year 1914.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 51, in line 4, strike out the word "thirteen" and insert in lieu thereof the word "fourteen."

Mr. JOHNSON of South Carolina. The purpose of the amendment is to correct a typographical error.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For purchase of labor-saving machines, including the purchase and exchange of registering accountants, numbering machines, and other

machines of a similar character, including time stamps for stamping date of receipt of official mail and telegrams, and repairs thereto, and the purchase of supplies for photostat, \$8,000.

Mr. BORLAND. Mr. Chairman, I offer an amendment to that paragraph, to strike out the word "photostat" and insert in lieu thereof the words "photographic reproduction machines," so that it will read "Supplies for photographic reproduction machines." With a word of explanation I can make that clear.

The CHAIRMAN. Will the gentleman wait until the amendment is reported?

Mr. BORLAND. Certainly.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Missouri [Mr. BORLAND].

The Clerk read as follows:

Amend, page 54, line 6, by striking out the word "photostat" and inserting in lieu thereof the words "photographic reproduction machines."

Mr. BORLAND. Mr. Chairman, the word "photostat" is the name of a particular kind of patented machine used for the purpose of photographing documents, making reproductions by the use of photography instead of by typewriting or otherwise. The name "photostat" is not, as might be supposed from this wording, a generic term, but the name of a particular machine. There are other machines in the market; some of them called "cameragraphs" and other names in a general way designating the kind of machines they are, which are used for the same purpose—that is, to make photographic copies of documents. It happens that there are a certain number of photostats in this particular department. I believe the auditor has ruled that the supplies for photostats may be stationery, and, possibly, might be included in the general appropriation for stationery. But in order to make the thing perfectly safe he advised that they put into that particular clause for contingent expenses the phrase "supplies for photostats." They now have in contemplation the purchase and employment of other machines besides the photostat, and will probably have them in operation during the life of this bill, so that the wording should be broad enough to include supplies of any kind of a photographic reproduction machine, whether called a "photostat" or not. That is the idea of the amendment.

Mr. JOHNSON of South Carolina. Mr. Chairman, they have in certain departments of the Government a machine called a "photostat." We are making appropriations for that. If other machines should be purchased hereafter, I think it would be early enough then to change the language of the appropriation bill.

Mr. BORLAND. I do not believe it would be for this reason—

Mr. JOHNSON of South Carolina. For instance, we have given the Treasury Department no money out of which they can buy any other machines, so far as I am aware. They have a photostat already installed.

Mr. BORLAND. Under this appropriation, Mr. Chairman, they can buy labor-saving machinery, and under that designation they could buy any other machine for the same purpose that was not called a "photostat." They could buy a machine not called a "photostat," which is a labor-saving machine, and if they undertook to buy it under this item authorizing the purchase of labor-saving machinery they would need some supplies for it, and probably would need some supplies for it during the current year. It is just as easy as not to make that language broad enough to include supplies in labor-saving machinery whether called "photostats" or otherwise.

Mr. JOHNSON of South Carolina. I suggest that the gentleman withhold his amendment.

Mr. BORLAND. I have the amendment here.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 7531. An act to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse pur-

poses at Port Ferro Light Station, P. R.; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

LINCOLN MEMORIAL (S. DOC. NO. 965).

The SPEAKER. The Chair will state to the House that yesterday there came in a short message from the President of the United States, transmitting a report of the commission on the Lincoln Memorial, and the Chair ordered the message to be printed according to the usual formality, but did not include in the order the printing of the report. Unless there is objection, by unanimous consent the Chair will order it printed for the information of the Members.

Mr. MANN. It would be printed with illustrations, I presume. I do not know whether there are any illustrations, but I presume there are.

The SPEAKER. If there are illustrations, they will be printed, too.

PANAMA CANAL (H. DOC. NO. 965).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying report, ordered to be printed and referred to the Committee on Interstate and Foreign Commerce:

To the Senate and House of Representatives:

I transmit herewith, in pursuance of the requirements of chapter 1302 (32 Stats., p. 483), "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902, the Annual Report of the Isthmian Canal Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 6, 1912.

FISCAL, JUDICIAL, MILITARY, AND INSULAR AFFAIRS (H. DOC. NO. 1067).

The SPEAKER laid before the House a message from the President of the United States, which was read, ordered to be printed, and referred to the Committee of the Whole House on the state of the Union.

[For text of message see Senate proceedings of this day.]

At the conclusion of the reading of the message there was applause on the Republican side.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Saturday, December 7, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Des Moines River, Iowa (H. Doc. No. 1063); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of survey of Cohasset Harbor, Mass. (H. Doc. No. 1052); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of entrance to Kuskokwim River, Alaska (H. Doc. No. 1051); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sergius Narrows, Alaska (H. Doc. No. 1053); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sammamish River, Wash. (H. Doc. No. 1062); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Green River, Ky. (H. Doc. No. 1061); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Falls of the Willamette River at Oregon City, Oreg. (H. Doc. No. 1060); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of South Fork of Edisto River to Guignards Landing, S. C. (H. Doc. No. 1054); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Indian River Inlet, Del. (H. Doc. No. 1055); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mississippi River opposite St. Louis (H. Doc. No. 1059); to the Committee on Rivers and Harbors and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Murderkill River, Del. (H. Doc. No. 1058); to the Committee on Rivers and Harbors and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Apalachicola Bay and St. George Sound, Fla. (H. Doc. No. 1057); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Bayou Courtableau, La. (H. Doc. No. 1056); to the Committee on Rivers and Harbors and ordered to be printed.

14. A letter from the Secretary of War, transmitting, pursuant to law, statement submitted by Acting Chief of Ordnance of expenditures at Springfield Armory, Springfield, Mass., and Rock Island Arsenal, Rock Island, Ill., during the fiscal year ended June 30, 1912 (H. Doc. 1065); to the Committee on Expenditures in the War Department and ordered to be printed.

15. A letter from the Secretary of War, transmitting list of useless executive papers on file in the various bureaus in the War Department and requesting that same be destroyed (H. Doc. No. 1064); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

16. A letter from the president of the Board of Commissioners of the District of Columbia, transmitting report of the commissioners on the necessity of establishing a reform school for white girls within the District of Columbia, as requested by act of June 26, 1912 (H. Doc. No. 1066); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 16737, reported in lieu thereof a resolution (H. Res. 734) referring to the Court of Claims the papers in the case of the heirs of Nicholas Chano, accompanied by a report (No. 1264), which said resolution and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CARTER: A bill (H. R. 26808) to provide for the completion of the survey and appraisal of the segregated mineral land in Oklahoma; to the Committee on Indian Affairs.

By Mr. LEE of Georgia: A bill (H. R. 26809) to increase the limit of cost for the construction of a Federal building at Cedar-town, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. MCKENZIE: A bill (H. R. 26810) to extend the time for the construction of a dam across Rock River, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. McKELLAR: A bill (H. R. 26811) to amend an act providing for the appointment of the Mississippi River Commission, and other purposes, approved June 28, 1879, and an amendatory act thereto approved February 18, 1901; to the Committee on Rivers and Harbors.

By Mr. FRENCH: A bill (H. R. 26812) to provide for State selection of phosphate and oil lands; to the Committee on the Public Lands.

Also, a bill (H. R. 26813) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. DIES: A bill (H. R. 26814) to authorize the erection of a public building at Nacogdoches, Tex.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26815) to authorize the purchase of a site for a public building at Orange, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. DIXON of Indiana: A bill (H. R. 26816) to provide for the purchase of a site and the erection of a public building at Greensburg, Ind.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26817) to provide for the purchase of a site and the erection of a public building thereon at North Vernon, in the State of Indiana, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. AKIN of New York: A bill (H. R. 26818) for the purchase of a site and the erection thereon of a public building at Fort Plain, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. MOON of Tennessee: A bill (H. R. 26819) to regulate the pay of substitute letter carriers in the City Delivery Service and provide for their status when appointed to permanent positions as regular carriers; to the Committee on the Post Office and Post Roads.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred, as follows:

By Mr. ADAIR: A bill (H. R. 26820) granting an increase of pension to Mary J. Smith; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26821) for the relief of the trustees of the Christian Church at Missouri City, Clay County, Mo.; to the Committee on War Claims.

By Mr. ASHBROOK: A bill (H. R. 26822) granting a pension to Sarah Harmon; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 26823) granting an increase of pension to Hester Ann Steel; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 26824) granting a pension to Roy Vest Smith; to the Committee on Pensions.

By Mr. CRAVENS: A bill (H. R. 26825) granting a pension to James T. Kissinger; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 26826) granting a pension to Celestia Betts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26827) granting an increase of pension to Emma M. Barrett; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 26828) for the relief of Peter Helfman; to the Committee on Claims.

Also, a bill (H. R. 26829) granting a pension to Mary O'Brien; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26830) granting a pension to Rebecca E. Fowler; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26831) granting an increase of pension to Rodney W. Anderson; to the Committee on Pensions.

By Mr. HARTMAN: A bill (H. R. 26832) granting a pension to Hannah McVicker; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 26833) granting a pension to William Trots; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 26834) granting a pension to Kate Chance; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 26835) granting an increase of pension to Daniel J. Haynes; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 26836) granting an increase of pension to Levi P. Miller; to the Committee on Invalid Pensions.

By Mr. LEWIS: A bill (H. R. 26837) for the relief of the trustees of the Quinn African Methodist Episcopal Church, of Frederick, Md.; to the Committee on War Claims.

By Mr. LINDBERGH: A bill (H. R. 26838) to correct the military record of John Brown; to the Committee on Military Affairs.

Also, a bill (H. R. 26839) granting an increase of pension to Henry B. Frey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26840) granting an increase of pension to Elias S. Baker; to the Committee on Invalid Pensions.

By Mr. MCKENZIE: A bill (H. R. 26841) granting a pension to Miles S. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26842) granting a pension to Emma C. Weinhold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26843) granting an increase of pension to James C. Burwell; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 26844) granting a pension to Mary Hahn; to the Committee on Invalid Pensions.

By Mr. PARRAN: A bill (H. R. 26845) granting a pension to Marian Eva Keyes; to the Committee on Pensions.

Also, a bill (H. R. 26846) granting a pension to Martha A. Rea; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26847) granting an honorable discharge from the military service of the United States to Adam Thurmon; to the Committee on Military Affairs.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26848) granting an increase of pension to Mary B. Garretson; to the Committee on Invalid Pensions.

By Mr. PETERS: A bill (H. R. 26849) for the relief of Charles Dudley Daly; to the Committee on Military Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 26850) granting an increase of pension to George W. Runion; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26851) granting an increase of pension to David Shulz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26852) granting an increase of pension to Emanuel Carmack; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 26853) granting a pension to John H. Baker; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 26854) granting an increase of pension to Edmund Buck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26855) restoring the name of Sarah E. Wilson to the pension roll; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 26856) granting a pension to Laura Newman, née Mount; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26857) granting an increase of pension to Thomas Daugherty; to the Committee on Pensions.

Also, a bill (H. R. 26858) granting an increase of pension to Isaac Byers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26859) granting an increase of pension to George Ingersoll; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26860) granting an increase of pension to John L. Beck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26861) granting an increase of pension to Charles Saunders; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26862) granting an increase of pension to Samuel Webb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26863) granting an increase of pension to Mary B. Taylor; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 26864) granting an increase of pension to Jesse A. Ross; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 26865) for the relief of the county court of Allen County, Ky.; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Mr. J. H. Reiser and 3 other merchants of Tuscarawas, Ohio, asking that Congress further increase the power of the Interstate Commerce Commission toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the Lake Michigan Sanitary Association, favoring an appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. DYER: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page-Wilson bill giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Stark Distillery Co., St. Louis, Mo., protesting against the passage of the Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of James E. Cowan, St. Louis, Mo., favoring enactment of legislation securing pension for the Missouri Militia; to the Committee on Pensions.

By Mr. ESCH: Petition of the Supreme Council of United Commercial Travelers of America, favoring passage of bill changing the day of the national elections; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Chamber of Commerce of the State of New York, protesting against legislation placing the Board of General Appraisers under any department of the Government; to the Committee on Ways and Means.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Grand Council of Wisconsin, Order of United Commercial Travelers of America, favoring the changing of the general election day to Monday; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Manila Welfare Committee relative to reclaiming and making sanitary the lowlands around Manila; to the Committee on Appropriations.

Also, petition of the Lake Michigan Sanitary Association, favoring appropriation for the investigation of the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. ESTOPINAL: Petition of postal clerks of New Orleans, La., relative to the interpretation of the section of the Post Office appropriation bill relating to classification and advancement of railway postal clerks; to the Committee on the Post Office and Post Roads.

Also, petition of the Southern Agricultural Workers, favoring an appropriation for the eradication of the cow ticks; to the Committee on Agriculture.

Also, petition of the Central Trades and Labor Council of New Orleans, La., protesting against the passage of the amended bill of Mr. KENYON (S. 4043); to the Committee on the Judiciary.

Also, petition of New Orleans (La.) Lodge, No. 161, of the United Brewery Workers of America, protesting against the passage of the Webb-Kenyon liquor bills; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Illinois Daughters of the American Revolution, favoring the passage of the Cox bill, to prevent desecration of the American flag; to the Committee on the Library.

Also, petition of R. C. Brown, clerk of the United States district court for the southern district of Illinois, favoring passage of House bill 21226, to put such clerks on a salary basis; to the Committee on the Judiciary.

Also, petition of the Lake Michigan Sanitary Association, favoring an appropriation for the investigation of the extent of the pollution of the Great Lakes; to the Committee on Appropriations.

By Mr. LINDSAY: Petition of the Lake Michigan Sanitary Association, favoring investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. MILLER: Petition of citizens of Proctor, Minn., favoring enactment of legislation requiring civil-service examinations for third-class postmasters; to the Committee on the Post Office and Post Roads.

By Mr. MOTT: Petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. SCULLY: Petition of Capt. J. W. Conwer Post, No. 63, Grand Army of the Republic, favoring the passage of House bill 14070, for relief of veterans whose hearing is defective; to the Committee on Invalid Pensions.

By Mr. SULZER: Petition of the Lake Michigan Sanitary Association, favoring appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. WEEKS: Petition of citizens of Boston, favoring enactment of legislation establishing a United States court of appeals; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

SENATE.

SATURDAY, December 7, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULBERSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

UNITED STATES COMMERCE COURT (H. DOC. NO. 1081).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Attorney General, transmitting, pursuant to law, a statement of the expenditures of the appropriation for the United States Commerce Court for the year ended June 30, 1912, etc., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

MARITIME CANAL CO. OF NICARAGUA (H. DOC. NO. 1044).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Maritime Canal Co. of Nicaragua, which, with the accompanying paper, was referred to the Committee on Inter-oceanic Canals and ordered to be printed.

YORKTOWN CELEBRATION.

The PRESIDENT pro tempore laid before the Senate a communication from the Yorktown Historical Society, which was read and ordered to lie on the table, as follows:

YORKTOWN HISTORICAL SOCIETY
OF THE UNITED STATES,
London, September 28, 1912.

The honorable the SECRETARY OF THE SENATE
OF THE UNITED STATES OF AMERICA,
Washington, D. C., U. S. A.:

The Yorktown Historical Society of the United States requests the honor of the presence of the honorables the Members of the Senate of the United States of America at the annual celebration of the surrender of Gen. Lord Cornwallis to Gen. Washington, to be held at Yorktown on the 19th day of October, 1912, and also on the same date in the year 1913.

R. S. V. P. to the secretary of the society, Mrs. Carroll Van Ness.

PETITIONS AND MEMORIALS.

Mr. GRONNA. I present petitions signed by sundry citizens of Buxton, Valley City, Drayton, Inkster, and Casselton, all in the State of North Dakota, praying for the passage of the Kenyon bill, No. 4043, providing for the ratification of an interstate liquor law. I ask that the body of one of the petitions may be printed in the RECORD in full.

There being no objection, the petitions were ordered to lie on the table, and the body of one of the petitions was ordered to be printed in the RECORD, as follows:

To the Hon. A. J. GRONNA,
United States Senator, Washington, D. C.:

The undersigned, citizens and residents of the State of North Dakota, realizing the evil effects of the liquor traffic and the difficulty of enforcing the prohibition law of this State under the present interstate-commerce law, earnestly request you as our representative to use all legitimate means within your power to secure the passage of the bill known as the "Amended Kenyon bill," No. 4043, which will come up in the United States Senate on December 16 next.

Mr. CLAPP. I present a petition relative to the payment of the balance due the depositors in the Freedmen's Savings & Trust Co. I ask that the statement on the front page be printed in the RECORD and that the rest of the petition be filed.

There being no objection, the petition was referred to the Committee on Education and Labor, and the statement was ordered to be printed in the RECORD, as follows:

This petition is indorsed by the National Baptist Convention, representing two millions and a half communicants; the African Methodist Episcopal Church, representing 800,000 communicants; the Methodist Episcopal Zion Church, representing 600,000 communicants; the National Negro Business League, representing the colored business men throughout the United States; and sundry other citizens and organizations, praying for the enactment of legislation to pay the balance due the depositors in the Freedmen's Savings & Trust Co.

R. JAMES L. WHITE.

Mr. BRISTOW presented a petition of sundry citizens of Scandia, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; to the Committee on Commerce.